

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 IN AND FOR THE COUNTY OF SAN FRANCISCO
3
4 PATRICIA HENLEY,)
5 Plaintiff,)
6 VS.) Case No. 995172
7 PHILIP MORRIS INCORPORATED,)
8 ET AL.,)
9 Defendants.)
10)
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14 DEPOSITION OF JOSE REYES
15 TAKEN ON
16 WEDNESDAY, SEPTEMBER 23, 1998
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21 Reported by: VICTORIA MELEKIAN
22 CSR No. 6996 (71523)
23
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2 Deposition of JOSE REYES, taken on behalf of
3 the DEFENDANTS, at 150 East Angeleno Avenue, Room 19,
4 Burbank, California, 91502, on WEDNESDAY,
5 SEPTEMBER 23, 1998, at 1:10 p.m., before VICTORIA
6 MELEKIAN, CSR No. 6996, pursuant to NOTICE.
7

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COMBS & GREENLEY (415) 512-1234, A LegaLink Company
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COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 I N D E X
2
3 WITNESS EXAMINATION PAGE
4 JOSE REYES (By Mr. Miles) 6,130
5 (By Mr. Rowland) 106,131
6 (By Mr. Baker) 120
7 (By Mr. Sano) 126
8
9
10
11
12 PLAINTIFF'S EXHIBITS PAGE
13 1 Plaintiff's Objection to 133
14 Depositions of Jose Reyes,
15 Penny Belding and Star Henley
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COMBS & GREENLEY (415) 512-1234, A LegaLink Company
BURBANK, CALIFORNIA; WEDNESDAY, SEPTEMBER 23, 1998
1:10 P.M.

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JOSE REYES,
having been first duly sworn, was
examined and testified as follows:

EXAMINATION

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BY MR. MILES:

Q. Could you give us your full name,
please.

A. Jose Reyes.

Q. Have you ever had your deposition
taken before, Mr. Reyes?

A. No.

Q. I introduced myself to you before the
deposition began, but let me do so again. My name is
Don Miles, I represent Reynolds Tobacco Company in
this case. I'll be the first attorney to ask you
some questions. I'm sure all of the attorneys at
some point will have some questions they want to
address to you. It's important for you to understand
you're under oath in this proceeding, that we're

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taking the testimony as if you were at trial and that
your testimony here can be used at trial whether or
not you appear there to testify.

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MS. CHABER: Well, Counsel, I filed an
objection to the notice to the extent that this was
purporting to be something other than a discovery
deposition. I'm not aware of any basis for making it
anything other than. He seems like a healthy man who
lives in the State of California and within the
subpoena powers of the state and I did serve an
objection to all on that basis.

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MR. MILES: Your objection is noted.

Q. Mr. Reyes, it's important for you to
understand that this is testimony that can be used in
the courtroom. We're here to find out what you know
and what you don't know. If at any time during the
course of the deposition I ask you a question that
you don't understand or if you have any difficulty
hearing me, just tell us and I'll be happy either to
rephrase the question or to have the court reporter
read it back to you.

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Is that acceptable to you?

A. Yes.

Q. It's important for you to answer with
words. A nod of the head or a hand gesture is not

7

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possible for the court reporter to take that down.

1

2 I'm pretty good about catching it, I have a tendency
3 to put my fingers to my ears to indicate that you
4 need to say something as opposed to a head nod.

5 The other thing is that the words
6 uh-huh and huh-uh are very difficult for the court
7 reporter to differentiate one from the other on the
8 record. Again, I'm pretty good about catching that,
9 if it's something that becomes an issue, we'll point
10 it out to you again.

11 I'm going to ask you a bunch of
12 questions. Some of the questions you'll have
13 information responsive to; other times I'll ask you
14 questions where you don't know the answer, you can't
15 remember. Where you have information that is
16 responsive to a question that I ask you, it's your
17 obligation to give me that information. On the other
18 hand, if I ask you a question and you don't know or
19 you can't remember, it's your duty in that situation
20 to indicate that. We don't want you to speculate.
21 Don't want you to assume, but rather we're just here
22 to find out what you know.

23 Do you understand that?

24 A. Yes.

25 Q. It is not a marathon, not an

8

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1 endurance test. During any course of the deposition
2 you want a break or you get tired and don't feel you
3 can give full, accurate responses to my questions or
4 questions of the other attorneys, just tell us that.
5 I try to take breaks about every hour. I'm not real
6 precise about it. That doesn't mean if you get tired
7 or want a break you shouldn't tell us.

8 A. Yes.

9 Q. Have you had an opportunity to meet
10 with Ms. Chaber before the deposition about this
11 deposition?

12 A. Yes.

13 Q. When did you first meet with her?

14 A. Yesterday.

15 Q. Where were you when you met with her?

16 A. At my residence.

17 Q. Is that the house that you share with
18 Ms. Henley?

19 A. Yes.

20 Q. Was Ms. Henley present during the
21 session you spent with Ms. Chaber?

22 A. No.

23 Q. Was she present in the house during
24 that time period?

25 A. Yes.

9

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1 Q. How long did you spend with
2 Ms. Chaber?

3 A. Approximately maybe 20 minutes, half
4 hour.

5 Q. Have you had an opportunity to review
6 any portion of the deposition testimony of
7 Ms. Henley?

8 A. No.

9 Q. Were you given any documents to look
10 at in anticipation of your deposition?

11 A. No.
12 Q. Have you talked to Ms. Henley about
13 her deposition?
14 A. I don't remember really clearly on
15 that.
16 Q. What is your recollection about that?
17 A. She might have said something about
18 meeting with you gentlemen.
19 Q. Do you recall one way or the other
20 whether she did, in fact, say something?
21 A. We didn't go into detail.
22 Q. What do you recall her saying, if
23 anything?
24 A. Just that there were a bunch of
25 attorneys.

10

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1 Q. Did she say anything else about the
2 deposition?
3 A. It was an experience for her.
4 Q. Beyond that, did she say anything
5 about the deposition?
6 A. No.
7 Q. When did you first meet Ms. Henley?
8 Even though she now has a different name than when
9 you first met her.
10 A. Approximately 1973.
11 Q. How did you meet?
12 A. I went to where she was working.
13 Q. Where was that?
14 A. It was a place called Danny's Bar.
15 Q. Is that bar still in existence?
16 A. I believe it is.
17 Q. Where is it located?
18 A. It's one block east of Wilton on
19 Melrose. But it's no longer called Danny's.
20 Q. Do you know what it's called now?
21 A. No, I haven't any idea.
22 Q. Was Ms. Henley bartending there at
23 the time?
24 A. Yes.
25 Q. Was she actually the bartender or was

11

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1 she a cocktail waitress?
2 A. Well, they only serve beer and wine
3 so....
4 Q. Was she the server or taking the
5 drinks to the tables or did she do both?
6 A. She was just behind the bar.
7 MS. CHABER: Could we stop for a second.
8 (Discussion held off the record.)
9 BY MR. MILES:
10 Q. At the time that you first met
11 Ms. Henley, was she also working in any kind of a
12 roto-rooter type business?
13 A. No.
14 Q. Was she married at the time you first
15 met her?
16 A. No.
17 Q. How long was it after you first met
18 her in 1973 that you developed a romantic
19 relationship with her?

20 A. Approximately two years.
21 Q. Did you see each other on any kind of
22 basis before you developed a romantic relationship?
23 A. No.
24 Q. How often had you seen her between
25 the time that you first met her in 1973 and the time

12

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1 you developed a romantic relationship with her two
2 years later?
3 A. How many times did I see her?
4 Q. Trying to find out whether you met
5 her one time and didn't see her for two years or see
6 her during the time and developed a relationship.
7 A. Periodically.
8 Q. Did you see her in any location other
9 than the bar that she bartended at?
10 A. No.
11 Q. Now, was there a time when the two of
12 you lived together on a romantic basis?
13 A. Yes.
14 Q. When was that?
15 A. Oh, maybe late '75 or early '76,
16 somewhere in there. I'm vague on that.
17 Q. Then how long did you live together
18 after you started living together on a romantic
19 basis?
20 A. Maybe three years. Four years.
21 Something like that.
22 Q. And when you lived together, where
23 did you live?
24 A. On Media Drive.
25 Q. Did either of Ms. Henley's two

13

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1 daughters live with you when you lived together?
2 A. Yes.
3 Q. Which of the two daughters?
4 A. Both.
5 Q. Did anyone else live with you while
6 the two of you lived together?
7 A. Will you define that?
8 Q. Someone who had a bed in your home.
9 A. Because she did have her aunt come
10 over and spend some time, but as far as living there,
11 huh-uh. No.
12 Q. Who was the aunt?
13 A. I've forgotten her name now. It's of
14 no consequence. She's dead now.
15 Q. Were the two daughters still living
16 with their mother at the time that you and Ms. Henley
17 stopped living together?
18 A. Yes.
19 Q. Had you had any other children live
20 with you during that time period?
21 A. I don't believe so. I don't recall.
22 Q. Do you have children?
23 A. Yes.
24 Q. Did they ever live with you or stay
25 with you during the time that you lived with

14

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1 Ms. Henley?

2 A. No.
3 Q. Have any of your children met
4 Ms. Henley?
5 A. My son.
6 Q. How often has he met your -- met
7 Ms. Henley?
8 A. Maybe twice. Maybe.
9 Q. Approximately how old was the oldest
10 daughter, Star, at the time you and Ms. Henley
11 stopped living together?
12 A. Stopped?
13 Q. Yes. When you first lived together?
14 A. Let's see. Approximate age, I
15 couldn't give you, but she was in junior high school.
16 Q. That's somewhere between the sixth,
17 seventh, or eighth grade, maybe eighth grade included
18 in that?
19 A. Yeah.
20 Q. Do you know whether or not Star had
21 been smoking at the time you first left the house?
22 A. No.
23 Q. Was it your impression she was not
24 smoking at the time that you first moved away?
25 A. Was it my impression she was not

15

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1 smoking?
2 Q. Yes.
3 A. Yes.
4 Q. What was that impression based on?
5 A. Never seen her smoke.
6 Q. Do you smoke?
7 A. Periodically.
8 Q. How often do you smoke?
9 A. Maybe four times a day.
10 Q. Has there been a time when you have
11 smoked more frequently than that on average?
12 A. Yes.
13 Q. When was that?
14 A. When I was smoking cigarettes.
15 Q. When you say you smoke four times a
16 day, are you smoking something other than cigarettes?
17 A. Yes.
18 Q. What is it you smoke?
19 A. Cigars.
20 Q. When did you smoke cigarettes?
21 A. Since I was 13.
22 Q. When did you stop smoking cigarettes?
23 A. Approximately three years ago.
24 Q. Up to the time that you stopped
25 smoking cigarettes, how much did you smoke?

16

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1 A. Maybe a pack and a half a day.
2 Q. What caused you to stop?
3 A. My health.
4 Q. Are you talking about a specific
5 health problem that you had or a concern that you had
6 about developing a health problem or both?
7 A. I had a -- I had a vein break in my
8 eye and they said it was some kind of a stroke. And
9 going to the doctors, they asked me if I was
10 smoking. Well, come to find out that I had a

11 cholesterol problem. But the smoking wasn't helping
12 it either.
13 Q. Was there a time when you were
14 disabled because of a stroke?
15 A. Yes.
16 Q. When was that?
17 A. Somewhere in the late eighties, early
18 nineties, something like that. I don't recall
19 exactly.
20 Q. How long were you disabled because of
21 the stroke?
22 A. Approximately a year.
23 Q. Now, the incident where you said you
24 had a vein break in your eye, is that a different
25 incident than when you were disabled because of the

17

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1 stroke?
2 A. No. They -- the vein burst as a --
3 telling me that there was something wrong with the
4 body so when I went, they found that I had a high
5 blood pressure problem.
6 Q. When you had the vein burst in your
7 eye, did they actually tell you you had a stroke at
8 the same time or did they tell you you had high blood
9 pressure?
10 A. They told me that I had a minor
11 stroke and that I had high blood pressure.
12 Q. Had you known before that that you
13 had high blood pressure?
14 A. No.
15 Q. Approximately what year was it that
16 you learned that you had high blood pressure when
17 this vein broke in your eye?
18 A. Late eighties, early nineties.
19 Q. And then how long was it after you
20 had the vein break in your eye that you decided to
21 stop smoking and did so?
22 A. After my doctor told me that because
23 of my high cholesterol, I was going to have to modify
24 my eating habits and then at that time he asked me if
25 I smoked and he told me that that wasn't helping me

18

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1 either so I stopped.
2 Q. Your doctor encouraged you to stop
3 smoking?
4 A. Yes.
5 Q. And so did you stop smoking
6 cigarettes in either the late eighties or early
7 nineties?
8 A. Something like that, yes.
9 Q. Do you recall what year it was that
10 you stopped smoking?
11 A. No.
12 Q. After your doctor told you to stop
13 smoking, did you immediately stop?
14 A. I believe I tapered down for about
15 two days, three days, something like that and then I
16 just ended it.
17 Q. Since you've stopped, have you
18 started smoking cigarettes at any time? Again, on a
19 regular basis.

20 A. No.
21 Q. Did you go through any kind of
22 program to help you stop smoking cigarettes?
23 A. No.
24 Q. Other than just tapering down and
25 then stopping smoking, is there anything you did to

19

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1 help you successfully stop smoking?
2 A. Yes.
3 Q. What else did you do?
4 A. I got rid of my lighters and my
5 ashtrays.
6 Q. Anything else you did?
7 A. No.
8 Q. Did you stop any kind of activities
9 that you associated with smoking such as going to
10 bars or drinking or things like that?
11 A. No.
12 Q. Did you ask people not to smoke
13 around you or not to offer you cigarettes?
14 A. No.
15 Q. Did you tell people that you were
16 quitting smoking?
17 A. No.
18 Q. When did you start smoking cigars?
19 A. Approximately six months ago.
20 Something like that.
21 Q. So it would have been sometime in
22 1998?
23 A. Yes.
24 Q. Were you working with Ms. Henley
25 during the time that you quit smoking cigarettes?

20

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1 A. Yes.
2 Q. And did she at some point indicate
3 that she had noticed that you had stopped smoking
4 cigarettes?
5 A. I don't believe so. I don't believe
6 so.
7 Q. Did you tell her at some point that
8 you had stopped smoking cigarettes?
9 A. No.
10 Q. Did you ever discuss the reason why
11 you had stopped smoking cigarettes?
12 A. Did I ever discuss with her the
13 reasons?
14 Q. Yes.
15 A. Yes.
16 Q. When did you do that?
17 A. When my doctor told me.
18 Q. What did you say to Ms. Henley about
19 it?
20 A. I told her what the doctor said about
21 my eating habits and my smoking. She said, well, we
22 can do something about both of those, I think. That
23 was it.
24 Q. Did she make any effort to change
25 your eating habits and smoking habits after you told

21

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1 her the doctor's advice to you?

2 A. I had already done that on my own.
3 Q. Was it your observation at all that
4 she was supportive of your effort to try to quit
5 smoking?
6 A. How do you mean that?
7 Q. That she was encouraging or that she
8 would do things to reinforce your decision to not
9 take a cigarette?
10 A. No.
11 Q. Have you ever talked to her about not
12 smoking in the sense of her not smoking?
13 A. No.
14 Q. Why is that?
15 A. It's none of my business.
16 Q. Has she at any time ever indicated to
17 you that she was going to try to stop smoking?
18 A. She may have. She may have.
19 Q. Do you have a recollection of her
20 ever doing that?
21 A. I believe -- I can't give you the
22 date, but, yes.
23 Q. What do you recall?
24 A. She was trying to start a career in
25 singing. And it's for breath.

22

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1 MR. MILES: Could you just read it back. I
2 couldn't hear it.
3 (Record read.)
4 BY MR. MILES:
5 Q. When you say for breath, what do you
6 mean?
7 A. Well, when you're singing, you have
8 to have -- hold notes longer, I think.
9 Q. Did she say that when it was for
10 purposes of singing it was to hold the notes longer?
11 A. No. She didn't say that. I assumed
12 that.
13 Q. What did she say to you about her
14 desire to stop smoking?
15 A. She never said anything.
16 Q. How do you know she was trying to
17 stop smoking or was thinking about it?
18 A. She wasn't smoking as much.
19 Q. When is it that you saw her decrease
20 her smoking?
21 A. I can't put a date to it.
22 Q. Was it last year sometime?
23 A. Maybe. Yes. Probably.
24 MS. CHABER: Don't guess.
25 ///

23

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1 BY MR. MILES:
2 Q. Other than this occasion last year,
3 is there any other time that she indicated to you or
4 you observed her to be trying to quit smoking?
5 A. I don't recollect that.
6 Q. Was there a time when you observed
7 that she had stopped smoking?
8 A. Yes.
9 Q. Was that last year also?
10 A. I think it was late in the year or

11 early this year.
12 Q. When she was last smoking, what type
13 of cigarette did she smoke? What brand?
14 A. Marlboro.
15 Q. Was it regular Marlboro or some other
16 brand?
17 A. Regular. Red.
18 Q. Did you ever see her smoke any other
19 type of cigarettes on a regular basis other than
20 regular Marlboros?
21 A. No.
22 Q. When you smoked, what type of
23 cigarettes did you smoke?
24 A. Marlboro red.
25 Q. Did you ever discuss with her how

24

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 many cigarettes she smoked each day in terms of --
2 A. No.
3 Q. What is your statement as to how much
4 she smoked in terms of packs or cigarettes?
5 A. I have no idea.
6 Q. Did she ever say to you how much she
7 was smoking?
8 A. Did she ever tell me how much she was
9 smoking?
10 Q. Yes.
11 A. No.
12 Q. What conversations did you have with
13 each other about smoking over time?
14 MS. CHABER: Calls for a narrative. Vague
15 and ambiguous.
16 BY MR. MILES:
17 Q. I understand there may be more than
18 one conversation, may be a lot of conversations.
19 Rather than me trying to say what is the first
20 conversation, what is the second conversation, let me
21 ask you to give me your recollection of things you
22 talked about as it relates to smoking.
23 MS. CHABER: Same objection. Vague and
24 ambiguous. Calls for a narrative.
25 ///

25

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1 BY MR. MILES:
2 Q. You can answer the question. She's
3 just making a record.
4 A. Oh. Well, we didn't really discuss
5 our smoking habits.
6 Q. How about just conversations about
7 cigarettes or smoking?
8 A. No. That never took any of our time
9 discussing what our habits were.
10 Q. How about things like comments about,
11 for example, I'm just throwing some ideas out, not
12 suggesting you had these conversations, people will
13 talk about their feelings about smoking, I wish I
14 could give these things up, I live for these things,
15 comments like that, or comments about I can't give
16 them up, I want to, just offhand comments that people
17 make about smoking? Or why they started smoking,
18 that sort of thing. Can you remember any
19 conversations that you ever had with her her feelings

20 about smoking, why she started, why she continued,
21 whether she wished she'd never started, whether she'd
22 ever quit, anything like that?
23 MS. CHABER: Objection. Compound, complex,
24 calls for a narrative, vague, ambiguous, also, lacks
25 foundation.

26

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1 BY MR. MILES:
2 Q. You can answer the question, too.
3 MS. CHABER: If you can.
4 THE WITNESS: That's the whole thing. I
5 don't recall any of that.
6 BY MR. MILES:
7 Q. Is there any conversation --
8 A. I remember your question. I just
9 don't recall ever having a discussion about it.
10 Q. Did she ever indicate to you that she
11 had any bad feelings about smoking?
12 A. No.
13 MS. CHABER: Vague and ambiguous as to time.
14 BY MR. MILES:
15 Q. Did she ever indicate to you why she
16 smoked?
17 A. No.
18 Q. Did she ever indicate to you any
19 feelings that she had about her smoking, in terms of
20 whether she liked it or didn't like it?
21 A. No.
22 Q. Did she ever indicate to you any
23 feelings she had about wanting to quit smoking at any
24 time? Let me withdraw that.
25 A. No.

27

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 Q. Did she ever indicate to you that she
2 wanted to quit smoking?
3 A. I don't recall.
4 Q. Did she ever indicate that she felt
5 she was addicted to smoking?
6 A. No. I don't think so.
7 Q. Did she ever indicate why it was that
8 she liked smoking?
9 A. No.
10 Q. Did you ever hear her indicate that
11 she felt that her daughters should not smoke when her
12 daughters were pregnant?
13 A. You want to give me a time slot?
14 Q. Each of her daughters has been
15 pregnant one time; right?
16 A. Yes.
17 Q. During either of those two
18 pregnancies, did Ms. Henley ever indicate in your
19 presence that she felt that her pregnant daughter
20 should not be smoking during the pregnancy?
21 A. No. I don't believe so. I think the
22 daughters already knew.
23 Q. Why do you say that?
24 A. Because they didn't. Or they cut
25 down. Or they didn't do it in front of the family.

28

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 I have no idea. I didn't see it.

2 Q. Was it your observation that the
3 daughters had taken some steps to indicate that they
4 were not smoking while they were pregnant?
5 A. I have no idea about that.
6 Q. What caused you to say that you felt
7 the daughters already knew they shouldn't be smoking
8 when they were pregnant?
9 A. They were already married and out of
10 the house and there was no indication that they were
11 smoking in the house.
12 Q. Did Ms. Henley ever talk to you about
13 her feelings about her daughters smoking?
14 A. No.
15 Q. When the two of you lived together in
16 a romantic relationship while the daughters were
17 living with you, was there any kind of a household
18 rule as to whether the girls were going to be allowed
19 to smoke while they were still children?
20 A. No.
21 Q. Was there any discussion that it was
22 okay for the girls to smoke during the time that you
23 were living there?
24 A. No.
25 Q. Did you ever discourage the girls

29

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 from smoking, Ms. Henley's daughters?
2 A. No.
3 Q. Did you smoke in the house when you
4 lived with the daughters and Ms. Henley?
5 A. Yes.
6 Q. Did she, Ms. Henley?
7 A. Yes.
8 Q. Have you ever -- strike that.
9 After you and Ms. Henley stopped
10 living together in a romantic relationship, when is
11 the next time you lived together?
12 A. Just recently.
13 Q. When did you start living together
14 again?
15 A. I think two, three years ago.
16 Q. What year would you put that?
17 A. I can't give you a specific year.
18 Seems to me that would be the time period.
19 Q. So it would be before 1997 began?
20 A. Yeah.
21 Q. And what were the circumstances that
22 the two of you started living together again? And
23 let me rephrase it. That sounds like it has a
24 romantic context the way I phrased it.
25 What were the circumstances that led

30

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 up to your decision to share the same house with
2 Ms. Henley?
3 A. Well, I was becoming dissatisfied
4 with where I was living. She had a roommate that
5 was -- had moved out, and it was a rather large home
6 where she lives, presently is.
7 Q. Was one of your reasons for moving
8 into the home that Ms. Henley lived in to help her
9 with her expenses of living there?
10 A. Could you explain that more?

11 Q. Yes. Ms. Henley has indicated that
12 your moving into the house was to help her deal with
13 her expenses that she was having trouble handling.
14 I'm just asking if that's your recollection as well.
15 A. That's correct.
16 Q. What is your understanding of why she
17 was having trouble handling her own expenses?
18 A. Well, this is guesswork, if I give
19 you an answer.
20 Q. All right.
21 MS. CHABER: Don't guess.
22 BY MR. MILES:
23 Q. Give me your answer and we'll find
24 out what it's based on.
25 MS. CHABER: I would object. The witness

31

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 just told you he's about to guess or speculate as to
2 why somebody else is doing something. I think it's
3 improper for you to tell him to answer anyway.
4 MR. MILES: It's not improper, Counsel. You
5 have an objection. You made your objection. Don't
6 suggest I'm doing something improper, please.
7 MS. CHABER: It is improper to ask a witness
8 to guess and to speculate. You know that, Counsel.
9 BY MR. MILES:
10 Q. She and I will fight all day. You
11 can anticipate that.
12 Go ahead and tell me what your
13 impression was as to why Ms. Henley was having
14 difficulty with her expenses.
15 A. Like I said, it's a pretty large
16 home. I was in an apartment. By taking the money
17 that I was spending on my rental, we could live and
18 get rid of -- cut the expenses in half basically.
19 Q. What is your observation as to
20 whether Ms. Henley was having trouble meeting her own
21 expenses at that time?
22 A. Why do I believe that that was it?
23 Q. Yes.
24 A. I think it was a pretty large nut to
25 crack, you know, paying that rent in that home with

32

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 the money not coming in.
2 Q. What was the problem with money not
3 coming in?
4 A. Well, business went down for a while.
5 Q. Was there a reason why the business
6 had gone down?
7 A. There is no reason for it. Could be
8 anything.
9 Q. Was this a time when one or the other
10 of you was not working that you moved in with her?
11 A. This was after that.
12 Q. So you were back at work full time
13 prior to your decision to move in with Ms. Henley at
14 that house?
15 A. Uh-huh. Yes.
16 Q. When is the last time that you were
17 not working full time due to some physical problem
18 that you had?
19 A. I think, I don't recall for sure, but

20 somewhere in the early nineties. Yeah.
21 Q. By early nineties --
22 A. Anywhere from '90 to '95. Somewhere
23 in that area.
24 Q. Can you be more specific as to when
25 it was that you were last --

33

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 A. That's just guesswork.
2 Q. How long were you -- was there a
3 period when you were not able to work at all?
4 A. That was within that period.
5 Q. How long were you not able to work at
6 all?
7 A. A year.
8 Q. When you came back to work, did you
9 come back to work full time?
10 A. Not at the beginning.
11 Q. How long a time was it after you came
12 back to work that you were able to work full time?
13 A. About six months.
14 Q. And during the six-month period when
15 you were working, but not working full time, how much
16 did you work?
17 A. Part time.
18 Q. Can you estimate? Half time,
19 three-quarters, a third? How much?
20 A. I guess it all depended on how much I
21 felt I could push my body. But that was a
22 determining factor, how far I could go with it.
23 Q. It was a gradual ramping up, as you
24 got better, you worked more?
25 A. Yes.

34

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 Q. Now, was there a time when Ms. Henley
2 worked for a different plumbing company?
3 A. Yes.
4 Q. When was that?
5 A. Again, I can't be specific on the
6 date. It was in the late eighties, early nineties.
7 Q. Had she gone to work for this other
8 plumbing company before you were not able to work
9 physically?
10 A. I don't recall.
11 Q. What is your recollection as to why
12 it was she went to work for another plumbing company
13 at the time the two of you had B and B?
14 A. We were doing work for the plumbing
15 company and she could run the business from there.
16 Q. Was there any other circumstance that
17 you are aware of that caused her to go to work for
18 this other plumbing company?
19 A. Not that I'm aware of.
20 Q. Did she continue to work -- strike
21 that.
22 How long did she work for this other
23 plumbing company?
24 A. Approximately three years.
25 Q. When did she last work at the other

35

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 plumbing company?

2 A. I have no idea.
3 Q. Was it before or after you became
4 unable to work because of your disability?
5 A. Was it before or after?
6 Q. Yeah. Had she stopped working at
7 that other plumbing company before you became unable
8 to work because of your disability?
9 A. No.
10 Q. Was she working at the other plumbing
11 company when you were disabled?
12 A. No.
13 Q. Did she start at the other plumbing
14 company after you had come back to work full time
15 from being disabled?
16 A. I believe it was shortly thereafter,
17 yes.
18 Q. So the sequence so I know we're both
19 on the same page here is that you became disabled,
20 you were out from work for a year then you came back
21 to work part time for about six months and then you
22 started working full time again and then at that
23 point she went to work for this other plumbing
24 company; is that the right sequence?
25 A. No.

36

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 Q. Tell me what the sequence is then.
2 A. As I recall it, again, it's vague
3 here, cause I wasn't keeping precise dates and times,
4 during the period of time that I was disabled, she
5 was not working for these people. After or just
6 prior to my getting well or feeling better, she began
7 to work for these people.
8 Q. Now, when she was working for this
9 other plumbing company, what did she do for B and B
10 and its operations, if anything?
11 A. She continued what she was doing,
12 taking the calls.
13 Q. Where did the calls -- did the calls
14 actually go into the other plumbing company's
15 business?
16 A. Uh-huh.
17 Q. Yes?
18 A. Yes.
19 Q. How was that arranged?
20 A. She had a phone there.
21 Q. She had her own line that went into
22 the plumbing --
23 A. Yes.
24 Q. Now, other than her taking the phone
25 calls, was there anything else she did for B and B

37

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 during the time she worked for this other plumbing
2 company?
3 A. She took the calls and she dispatched
4 the jobs. And that was it.
5 Q. Now, had there been other duties she
6 had done for B and B before she went to work for this
7 other plumbing company?
8 A. No.
9 Q. After she stopped working for the
10 other plumbing company, did she take on more duties

11 for B and B?
12 A. No. I don't believe so.
13 Q. Other than taking the calls and
14 dispatching the jobs, is there any other job duty
15 that Ms. Henley did for B and B?
16 A. Bookkeeping.
17 Q. Anything else?
18 A. She was just the office girl. The
19 one who took care of everything that had to do with
20 the office.
21 Q. Were there times when she would go
22 out and physically unplug drains?
23 A. Yeah, there was a few times, yes.
24 Q. You say a few. How often did she do
25 that?

38

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 A. It wasn't the norm. Let's put it
2 that way.
3 Q. Whether or not it was the norm, I
4 don't want to quarrel with you on words, was it
5 something that she would do maybe once a year?
6 A. No.
7 Q. How often would she go out on a call
8 where she would physically unplug the drain?
9 A. Maybe once every ten years.
10 Q. During the time that you were
11 disabled, when the business was still operating, who
12 did the physical work itself when you were not able
13 to do it?
14 A. We had a couple other fellows, I
15 believe, who were working.
16 Q. Do you recall their names?
17 A. I think one of them was named Bob or
18 Robert something or other.
19 Q. Do you recall the other person's
20 name?
21 A. I think -- Chuck.
22 Q. And do you recall his last name?
23 A. Estevez.
24 Q. Estevez?
25 A. E.

39

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 Q. Was there at any time a man named
2 Kruse, Charles Kruse who was a partner in B and B?
3 A. Charles Kruse?
4 Q. Yes. I have it spelled K-r-u-s-e?
5 A. I don't recall.
6 Q. Do you recognize that name at all?
7 A. I know a -- Kruse. It sounds
8 familiar, but I can't place it.
9 Q. Is the Bob, is his last name Wilson?
10 A. Yes.
11 Q. Do you now have your own drain
12 company? Do you refer to it as a drain company? How
13 do you refer to it?
14 A. Reyes Rooting Company.
15 Q. Rooting Company?
16 A. Yes. It was B and B before it was
17 Reyes.
18 Q. Have you started your own company as
19 Reyes?

20 A. Yes.
21 Q. When did you start that business?
22 A. Three, four years ago, somewhere in
23 that area.
24 Q. Why did you start your own rooting
25 company?

40

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 A. B and B became a misnomer and -- part
2 of it went over to Patricia's dad's company. Excuse
3 me. Not his. It was Star's company.
4 Q. When you say part went to Star's
5 company, are you talking about the business going to
6 her company?
7 A. Yeah. We had joined or we were
8 taking care of each other's work loads at the time.
9 And now it became one. Then it became one.
10 Q. And what is Star's company called?
11 A. A Drain Management.
12 Q. And when did B and B and A Drain
13 Management become one?
14 A. I don't recall that. I don't know
15 the date on that.
16 Q. Was it before you started your own
17 rooting company three or four years ago?
18 A. Well, again, I have to be a blank on
19 that because I wasn't involved with the office part.
20 Patricia would have the figures on that.
21 Q. Which -- when you say the two
22 companies became one, what do you mean?
23 A. Well, we would cover each other's
24 work load. If one got more work than they could
25 handle, they would shove it off and, likewise, with

41

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 us so we were more or less intermeshed, but still
2 separate names.
3 Q. Why did that cause you to decide to
4 start your own rooting company as opposed to stay in
5 the partnership?
6 A. Patricia couldn't handle B and B no
7 more. She became ill.
8 Q. Did she become ill three or four
9 years ago?
10 A. No. Not that I know of. She just
11 was, you know, she had had it with the business.
12 Disenchanted, I guess. I don't know.
13 Q. So I know that we're talking about
14 the same thing, we're talking about something that
15 happened three or four years ago; correct?
16 A. Yes. Approximately.
17 Q. At that time Ms. Henley, that's when
18 you're saying that she got tired of the business and
19 couldn't handle it anymore, disenchanted, I think was
20 your word?
21 A. Yes. Approximately.
22 Q. And when you say that she got
23 disenchanted with the business, what was it that
24 caused you to feel that she was disenchanted?
25 A. Well, I would be guessing on that.

42

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 That would be with her.

2 Q. I don't mean what in her head. What
3 about her conduct caused you to conclude that she was
4 disenchanted with the business?
5 MS. CHABER: Calls for speculation. Lacks
6 foundation.
7 THE WITNESS: Yeah.
8 BY MR. MILES:
9 Q. I'm just asking your observations as
10 to what it was.
11 A. Again, it's just guesswork. This
12 would be my guess and, you know, I believe it is
13 because there was probably some problems with her
14 employer as the plumber and the slowdown in the work
15 load.
16 Q. What --
17 A. The hours were rather demanding,
18 also.
19 Q. What was it about her conduct that
20 caused you to conclude she was disenchanted?
21 A. I guess she was having a bad hair day
22 or something. She would kind of get excited from
23 time to time.
24 Q. Did she indicate to you before you
25 decided to start your own rooting business that she
43
COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 was intending to get out of the business?
2 A. She just told me that she was getting
3 tired of it.
4 Q. Did you discuss with her the
5 possibility that you would start your own rooting
6 business before you did, in fact, start your own
7 business?
8 A. No.
9 Q. How did you tell her that you had
10 started your own business?
11 A. She had already thought about that
12 before. And asked me about it, what I thought about
13 it. I said it's a good idea. That's when it
14 started.
15 Q. Did she suggest to you that you
16 should start your own business?
17 A. I don't recall how it came up in
18 conversation. I really don't. Just it happened that
19 way.
20 Q. But when you say it happened that
21 way, tell me what happened. I'm unclear still.
22 A. Well, she was getting tired of the --
23 and we discussed, well, maybe you ought to start your
24 own business. Whatever you want to do. She said
25 yeah, it sounds like a good idea. I want to pursue
44
COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 this other career. And I said okay. That was that.
2 Q. So she was saying so I know who's
3 speaking here as you're telling the story, she was
4 saying to you you ought to think about opening your
5 own business because she was thinking about pursuing
6 another career?
7 A. I assumed that was it. Like I said,
8 the beginning, that's my speculation on it.
9 Q. Was the other career she was talking
10 about her singing career?

11 A. Yes.
12 Q. Now, after you started your own
13 rooting business three or four years ago, did you
14 continue to work simultaneously in B and B?
15 A. With A Drain.
16 Q. Did you work with B and B as opposed
17 to A Drain?
18 A. There was no more B and B.
19 Q. Did B and B disappear about the same
20 time you started your own rooting company three or
21 four years ago?
22 A. Yes.
23 Q. Was there a -- when is the last time
24 that you felt you were a partner in B and B Rooting?
25 A. I can't be specific on that. I don't

45

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 remember.
2 MR. MILES: Counsel, you want to take a
3 break.
4 MS. CHABER: It's been an hour.
5 (Brief recess.)
6 MR. MILES: Let's go back on the record.
7 Q. Ready to proceed?
8 A. Yeah.
9 Q. When is the last time that you have
10 received a check from either B and B or from
11 Ms. Henley to you?
12 A. I don't even remember that.
13 Q. Was there ever a time when Ms. Henley
14 was helping to support you economically in the sense
15 of paying your bills or giving you money?
16 A. Yes.
17 Q. When was that?
18 A. When I was in the hospital. And when
19 I got done with my operation.
20 Q. When is the last time she gave --
21 helped to support you economically? What year was
22 it?
23 A. Somewhere between '94 and '96.
24 Q. When she was helping to support you
25 financially, how did she do that?

46

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 A. The business.
2 Q. Tell me what you mean.
3 A. The rooter service business.
4 Q. Were you taking your portion of the
5 income out of the business; is that what you were
6 referring to?
7 A. Yes.
8 Q. Beyond your getting your portion of
9 the income from the business, was there any other
10 support that Ms. Henley gave to you when you were in
11 the hospital?
12 A. Let me clarify this. I wasn't
13 getting a salary at that point in time. I was not
14 drawing a salary. What she was doing was taking care
15 of my bills. That was being done through the
16 business.
17 Q. So she had the business pay your
18 personal bills; is that what you are saying?
19 A. Yes.

20 Q. And then beyond that, did you receive
21 any money from the business during the time that she
22 was contributing to your support?
23 A. No.
24 Q. Did you in addition receive your
25 share of the profits of the business during that time

47

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 period?
2 A. No.
3 Q. Was there ever a time when you had a
4 salary from B and B?
5 A. Not really.
6 Q. How did you receive income from
7 B and B during the time you were a partner in it?
8 A. During that period of time, the bills
9 were just paid from the company. If I needed
10 something else, I would just ask for it and she'd
11 give me a check. And that would be it.
12 Q. What expenses were routinely covered
13 for you by B and B?
14 A. Household.
15 Q. Such as?
16 A. The lights, phone, gas.
17 Q. Did B and B pay for your food cost?
18 A. In part, yes.
19 Q. How was that done? Did you submit
20 things as if they were an expense and get reimbursed
21 for it or did you have a food allowance that you just
22 converted to cash and paid for groceries? How did
23 B and B pay for food expense for you personally?
24 A. I'd go to the store and pick up some
25 stuff. That was about it.

48

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 Q. How would B and B then pay for it if
2 you went to the store and bought it?
3 A. She would give me a check.
4 Q. Would the check be made payable to
5 you or to the store?
6 A. To myself.
7 Q. Was there any accounting between the
8 two of you to evaluate whether you were receiving a
9 fair percentage of the income of the business?
10 A. No.
11 Q. Was there any agreement as to what
12 portion of the business approximately you were to
13 receive?
14 A. No.
15 Q. Do you have any idea how much money
16 she took out of the business?
17 A. No.
18 Q. For each item of expense, type of
19 expense that was paid for you, did she receive a
20 comparable reimbursement from B and B? For example,
21 if it paid for your lights, did it also pay for her
22 lights?
23 A. I have no idea.
24 Q. Do you know -- strike that.
25 Was B and B ever profitable in the

49

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 sense that its revenues exceeded its expenses?

2 A. Rarely.
3 Q. When is the last time it was
4 profitable?
5 A. I couldn't tell you that, either.
6 Q. What is the most money in revenues
7 B and B ever took in in one year?
8 A. I didn't handle the books.
9 Q. But in terms of your awareness of how
10 much money the company was taking in?
11 A. No idea.
12 Q. When you would go out on a job, how
13 was the job billed in terms of B and B being paid
14 for?
15 A. The work order would go back to the
16 office, Patricia would make it out and bill the
17 appropriate people for it and in return they'd send
18 the money back.
19 Q. Were you paid by the hour or by the
20 job?
21 A. By the job.
22 Q. What types of jobs did you work on
23 typically? Residential, commercial?
24 A. Both.
25 Q. For residential, let's say a toilet

50

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 backed up; is that something that you would do?
2 A. Uh-huh. Yes.
3 Q. If you went out and did a toilet back
4 up what would you charge?
5 A. Depends. When I first started, \$9 to
6 clear a sink. It's presently 35.
7 Q. Now, is that -- when you say 35, is
8 that the retail cost or the wholesale cost?
9 A. It's our cost.
10 Q. B and B -- are we talking about your
11 rooting company?
12 A. What we charge, yes.
13 Q. When you were last doing work for
14 B and B if you went out and just did a toilet, how
15 much would it have cost you?
16 A. 30.
17 Q. In terms of the amount of revenue you
18 would expect to be able to generate in a day, what
19 was the range of how much money you thought you could
20 generate in a day?
21 MS. CHABER: Vague and ambiguous, him
22 specifically or him plus other workers or --
23 MR. MILES: I'm talking about working by
24 himself while he was at B and B toward the end of the
25 period.

51

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 THE WITNESS: All depends on if you had a
2 busy day or not. You could be with maybe two calls
3 in a day and sometimes you could get more than that.
4 There's no set amount.
5 BY MR. MILES:
6 Q. I understand that. But I'm trying to
7 figure out what you regard as a -- obviously a poor
8 day would be zero. I assume there were some days you
9 had no jobs; true?
10 A. It's true.

11 Q. What would be a good day, where you
12 say this was really better than the norm that you
13 remember?

14 A. There's so few. I really couldn't
15 give you a figure on that. I don't recall. It's
16 just more or less like a mean average of about six
17 calls per day at the time. Sometimes it would go
18 higher to ten. Sometimes lower.

19 Q. And just in terms of average, when
20 you were saying on average you get about six calls a
21 day, what would the average costs be in this average
22 call?

23 A. It all depends on how much, on what
24 you did, whether it was a sink, tub, a main line,
25 whether you use two men, whether you use one man,

52

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 whether you use a big machine, what tool you use,
2 whether you had to replace a part. There is a lot of
3 variations. I can't give you an exact amount.

4 Q. Can you give me an average --

5 A. I wouldn't even guess a ballpark
6 figure for you.

7 Q. Did you receive any sort of reporting
8 from B and B as to how much money --

9 A. No.

10 Q. -- you had received as income from
11 the business so you could report it on your taxes?

12 A. No.

13 Q. Did you ever receive -- let me
14 withdraw that.

15 What is the most money you ever made
16 as income from B and B while you were associated with
17 the company in any one year?

18 A. No idea. I'm not involved with the
19 bookkeeping. I never was. Let me clarify this for
20 you so we don't have to go into this area. We're
21 talking about monies, Patricia was involved with it.
22 Talking about field work, I was involved with it. We
23 never meshed the two. It's that simple.

24 Q. But did you make any effort to keep
25 track of how much money you were making?

53

COMBS & GREENLEY (415) 512-1234, A LegaLink Company

1 A. No.

2 Q. You never did anything to figure out
3 how much money you were making in the business?

4 A. No.

5 Q. How about for your taxes, did you
6 ever calculate how much money you were making for
7 purposes of reporting it on your taxes?

8 A. No.

9 Q. Do you know if anybody ever did?

10 A. Again, I just got through telling
11 you. She took care of the paperwork in the office.
12 I didn't.

13 Q. Is it your understanding that she
14 calculated how much money you made in income for any
15 particular year?

16 A. Is that my understanding, did you
17 say?

18 Q. Yes.

19 A. I presume so.

20 Q. Did she ever tell you how much you
21 made in a particular year?
22 A. Not specifically, I don't think so.
23 Q. Did she ever tell you generally how
24 much you had made?
25 A. We never discussed it.

54

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 Q. Was there ever a time when either of
2 the two daughters worked in B and B?
3 A. For a period. For a period of time.
4 Q. When was that?
5 A. I couldn't be specific on the dates,
6 but I know that, yes, at one time they did. One did.
7 Q. Which daughter was it?
8 A. Raeanna.
9 Q. And what did she do for B and B?
10 A. She was a service person.
11 Q. By that you mean she went out into
12 the field?
13 A. Yes.
14 Q. And how long did she work for
15 B and B?
16 A. Off and on. Again, you'd have to
17 talk with -- I didn't have control over that.
18 Q. What were your feelings about the
19 fact that she was working for B and B?
20 A. I had none.
21 Q. Did you have any observations about
22 how good an employee she was?
23 A. Yes.
24 Q. What was your observation?
25 A. She was all right.

55

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 Q. When did she stop working for
2 B and B?
3 A. I can't give you a date on that.
4 Q. What year was it?
5 A. I can't give you a date on it.
6 Q. Was it before or after you started
7 your own rooting company?
8 A. Before.
9 Q. Was it before or after you became
10 disabled?
11 A. I'm getting at this. I don't have
12 any idea when specifically that was. I didn't make a
13 mental note of it.
14 Q. Was Raeanna out of high school at the
15 time she came to work for B and B?
16 A. Yes.
17 Q. Was it before she had her child?
18 A. Yes.
19 Q. Did she work for B and B for less
20 than a year?
21 A. Off and on.
22 Q. Did --
23 A. Sometimes it was not full time.
24 Q. But the time that she first worked to
25 the time she last worked, was that less than a year?

56

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 A. I believe so. I'm not sure on that.

2 Q. Did the two of you ever work together
3 on a job?
4 A. Yes.
5 Q. Did you have any trouble
6 communicating with her?
7 A. No.
8 Q. Is it your observation that she has
9 difficulty communicating in English to people?
10 A. Sometimes.
11 Q. What is the difficulty she has when
12 she has problems?
13 A. She's kind of a nervous person. She
14 had a learning problem when she was younger, when she
15 was a child going to school, and that created
16 problems for her later on.
17 Q. What were the problems that you're
18 referring to?
19 A. Communication skills.
20 Q. What is the problem that she has
21 communicating?
22 A. I'm not a doctor. I couldn't tell
23 you.
24 Q. No, I'm just talking about your lay
25 perception of it in the context of your dealings with

57

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 her.
2 A. She couldn't express herself to the
3 point where to make herself clear or to make a
4 point. She was educationally handicapped when she
5 was younger and probably to a point still is. I have
6 no idea.
7 Q. If you give her an instruction, is
8 she able to understand the instruction?
9 A. Yes.
10 Q. So her difficulty is in articulating
11 her thoughts on something?
12 A. Uh-huh.
13 Q. Yes?
14 A. Yes.
15 Q. Did this difficulty create any
16 problems in her working at B and B that you are aware
17 of?
18 A. I don't believe so.
19 Q. Is the problem sufficiently severe
20 that it prevents her from working now as far as you
21 know?
22 MS. CHABER: Objection. Calls for
23 speculation. Calls for a medical conclusion. Calls
24 for knowledge outside this witness' expertise.
25 ///

58

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 BY MR. MILES:
2 Q. You can answer.
3 MR. MILES: Read it back to him.
4 (Record read.)
5 THE WITNESS: As far as I know, it wouldn't
6 prevent her from working.
7 BY MR. MILES:
8 Q. Is she working now? Is that your
9 understanding?
10 A. Yes.

11 Q. Where is she working?
12 A. ADM.
13 Q. At A Drain, did you say?
14 A. Yes.
15 Q. Where is Star living now?
16 A. She has her own apartment. I have no
17 idea where it is at.
18 Q. Is it in the Los Angeles area?
19 A. I believe so, yes.
20 Q. Was there ever a time when you
21 routinely received each week from Ms. Henley through
22 B and B a check for either \$200 or \$250?
23 A. Yes.
24 Q. When did that stop?
25 A. When I went into the hospital.

59

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 Q. That was sometime in the period of
2 '94 to '96?
3 A. Something like that, yes.
4 Q. Why did you stop receiving a check at
5 that time?
6 A. I wasn't working.
7 Q. During the time that you were
8 receiving this check, were you working?
9 A. Yes.
10 Q. After you went into the hospital, was
11 there ever a time after that point when you routinely
12 received a check for either 200 or \$250 each week?
13 A. No. There may have been from time to
14 time -- excuse me -- there may have been from time to
15 time, but on a routine basis, as it was prior, I
16 don't think so.
17 Q. Since you've moved in with
18 Ms. Henley, has there been a time when you routinely
19 received a weekly check for either 200 or \$250, some
20 routine check that you got each week from her through
21 B and B?
22 A. No.
23 Q. Do you know if B and B was routinely
24 giving a check to either of the two daughters other
25 than for the work that the daughter did when she was

60

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 working there?
2 A. I don't know.
3 Q. In terms of your arrangement with
4 Ms. Henley now, how do the two of you share the rent
5 and the expenses of the household? In other words,
6 who pays the rent? How do you share it? Who pays
7 utilities? How do you share that?
8 A. She takes care of it.
9 Q. She pays for all of those things?
10 A. Yes. With the income that I'm
11 making.
12 MR. MILES: Would you read that back.
13 (Record read.)
14 BY MR. MILES:
15 Q. She writes a check using your income
16 to pay the rent?
17 A. Yes.
18 Q. How --
19 A. Something like that, yeah.

20 Q. How do you get your income to her so
21 she can write a check on it?
22 A. Beg your pardon? I'm working. I go
23 out and do jobs. They get billed out. Money comes
24 back in, bills get paid.
25 Q. Is she able to -- if you do work for
61
COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 your rooting company, is that billed in the name of
2 your rooting company?
3 A. It gets -- excuse me -- some of it
4 does. Others that I do for another rooting company
5 don't come back to me. They go back to the original
6 company that I subcontract for.
7 Q. Now, does Ms. Henley have the ability
8 to write a check on your rooting company's business
9 account?
10 A. I don't believe so.
11 Q. How do you get the money -- when the
12 check comes in made payable to Reyes Rooting, how
13 does she somehow have access to it?
14 A. It gets deposited into the company
15 account.
16 Q. Is that an account with the name
17 Reyes Rooting on it?
18 A. I believe it is, yes.
19 Q. Does she have the power to write
20 checks on that account?
21 A. I believe so.
22 Q. And in terms of the expenses of the
23 household, are those expenses paid out of the Reyes
24 Rooting account now?
25 A. They come out of two places, I would
62
COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 imagine.
2 MS. CHABER: Don't guess. Don't guess is
3 all I said.
4 BY MR. MILES:
5 Q. What is your understanding as to
6 where the money comes from that pays for the rent and
7 the household income other than from Reyes Rooting
8 accounts?
9 A. Billings that we do for another
10 contractor.
11 Q. Who is the other contractor?
12 A. ADM.
13 Q. Is ADM different from A Drain?
14 A. It's the same thing.
15 MS. CHABER: A Drain Management, ADM.
16 MR. MILES: Thank you, Counsel.
17 Q. When you say we, you are referring to
18 Reyes Rooting?
19 A. Yes.
20 Q. Is there any other account other than
21 Reyes Rooting that Ms. Henley is able to write checks
22 on that you are aware of?
23 A. Not that I'm aware of.
24 Q. In terms of income generated by
25 Ms. Henley for her own efforts in the last two years,
63
COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 was there ever a time when she was taking part of the

2 money that she had generated by her work and giving
3 it to you since you moved in with her?
4 A. What do you mean by generated by her
5 work?
6 Q. Well, you would go out and you would
7 work and that would generate income. That would go
8 into an account and then that money would be used to
9 pay common expenses, the rent. What I'm trying to
10 find out is there were times when she went out and
11 doing something different, she went out and worked
12 and received income for that work where she put that
13 money into the pool and then the pool was used to pay
14 for rent so it's her income as opposed to the money
15 you generated?
16 A. Both were joined and paid out. There
17 was no separate accounts.
18 Q. Putting aside the issue whether there
19 were separate accounts in 1997, what was Ms. Henley
20 doing, if anything, to make money?
21 A. She was working, I believe, with
22 Pitman Plumbing.
23 Q. And when did she stop working there?
24 A. When?
25 Q. Yes.

64

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 A. Yes.
2 MS. CHABER: Counsel, I would just indicate
3 that I think you misstated. You said working there.
4 He said working with. You might want to clarify.
5 There is a difference.
6 MR. MILES: I have a pending question.
7 Q. When did she work either at or with
8 Pitman Plumbing?
9 A. I can't give you a specific date.
10 Q. Was she working there up until the
11 time that she was diagnosed as having pneumonia and
12 then cancer at the end of 1997?
13 A. I think it -- I know it was real
14 close in there somewhere.
15 Q. Had she quit working there before she
16 became sick?
17 A. I think both of those came up at
18 approximately the same time.
19 Q. Is it your recollection she quit
20 before she became sick?
21 A. I think so. I believe so.
22 Q. Now, what did she say to you as to
23 the reason why she quit?
24 A. Working with Pitman Plumbing, you
25 mean?

65

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 Q. Yes.
2 A. I guess you would call it a
3 personality conflict.
4 Q. What did she say to you?
5 A. She said she just couldn't work with
6 Dale. Too many things were going wrong there at the
7 office and she was getting out. That was it.
8 Q. Now, Counsel has indicated there may
9 be some distinction between working with and working
10 at. Was it your understanding she was working for

11 Pitman Plumbing as an employee as opposed to just
12 providing services to them as a subcontractor?
13 A. She was working for Dale as an
14 employee with the office helping him there. But she
15 was doing our job, too. That's why the phone was
16 there.
17 Q. Now, did she work for Reyes Rooting
18 at some point?
19 A. No.
20 Q. And at the time that she quit working
21 at Pitman, you are referring to her quitting as an
22 employee, aren't you?
23 A. Yes.
24 Q. Did she ever talk to you about
25 quitting at Pitman before she actually quit?

66

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 A. No. Not that I recall.
2 Q. Were the two of you living in the
3 same house at the time she quit working at Pitman?
4 A. No.
5 Q. So had she quit her employment at
6 Pitman before you lived together?
7 A. Yes.
8 Q. Was she -- you had indicated that she
9 quit just before she got sick which -- when is it
10 that -- when is it she got sick? Was that before you
11 lived together or after you started living together?
12 A. It was before we started living
13 together.
14 Q. When she got sick, what was the
15 problem that she had as you understood it?
16 A. I didn't know what it was. She
17 didn't know what it was.
18 Q. How did it affect her as you observed
19 it?
20 A. Well, she's kind of a closed person.
21 She doesn't -- she'll tough things out.
22 Q. I understand. I'm just talking about
23 what you saw as opposed to what she said to you.
24 A. She just told me she didn't feel
25 well. Something was wrong. She let it go at that.

67

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 What she did after that, I have no idea.
2 Q. And was your decision to move into
3 the house prompted in part by the fact that she was
4 indicating she felt sick or something was wrong with
5 her?
6 A. Basis of fact it was because it could
7 get rid of my expenses of my apartment. You have --
8 you have this information that I gave you already as
9 to the reasons why we moved together.
10 Q. I'm trying to find out if an
11 additional reason was of concern because she was
12 sick?
13 A. It's nice to be close to somebody
14 that may need help.
15 Q. This was your understanding at the
16 time you moved in with her was that it was in part
17 prompted by her concern about being sick?
18 A. No. It was an economic thing and
19 secondary became a thing where I could be at hand if

20 I were needed.
21 Q. When is the first time that you --
22 after you moved in with her where you observed her to
23 be sick?
24 A. I guess all depends on what you
25 determine to be sick.

68

COMBS & GREENLEY (415) 512-1234, A LegaLink Company

1 Q. Well, rather than try to use your
2 words, just tell me when you felt she was sick, when
3 something was wrong with her.
4 A. Oh, God. I suppose when she was
5 coughing. It was like a bad cough that doesn't go
6 away.
7 Q. Did you ever talk to her about the
8 fact that she had this persistent cough?
9 A. Well, yeah. Yes, I think so.
10 Q. And what did you say to her?
11 A. Can I get you some cough medicine or
12 cough drops or something.
13 Q. Did you ever encourage her to go see
14 a doctor?
15 A. No. Not at that time.
16 Q. At some point did you encourage her
17 to go see a doctor?
18 A. I believe I might have. I don't
19 recall.
20 Q. What do you recall being what
21 prompted you to encourage her to go see a doctor?
22 A. She told me that she didn't feel well
23 and she was still coughing.
24 Q. Any other time you recall encouraging
25 her to go see a doctor for any reason?

69

COMBS & GREENLEY (415) 512-1234, A LegaLink Company

1 A. No.
2 Q. When you encouraged her to go see a
3 doctor, did she go see a doctor right away?
4 A. You don't encourage Patricia to go do
5 anything. You ask her if she would. She is a very
6 strong person and that's the wrong tack to take.
7 Q. To tell her to do something?
8 A. That's correct.
9 Q. When you subtly suggested that she
10 might think about seeing a doctor, I'll put it in
11 those terms, did she go see a doctor right away?
12 A. I asked her one time if she could go
13 see a doctor. Her response was enough. She already
14 knew. She's a person you don't have to tell twice.
15 Q. When you did talk to her the one
16 time, what did she do or say?
17 A. She said maybe. That was it. I
18 didn't pursue it.
19 Q. When is the first time you became
20 aware she was seeing a doctor for some sickness?
21 During the time you were living together.
22 A. The day she came back from the doctor
23 and the doctor told her that she had a tumor.
24 Q. And was this before Christmas of last
25 year?

70

COMBS & GREENLEY (415) 512-1234, A LegaLink Company

1 A. I don't recall specifically when it

2 was.
3 Q. She told you that she had cancer or
4 just a tumor?
5 A. That she had a tumor and they were
6 going to have to do a biopsy.
7 Q. So did they later do the biopsy on
8 her?
9 A. Yes.
10 Q. Then was it after the biopsy she
11 learned that she had cancer?
12 A. I believe that was correct.
13 Q. At Christmas of last year -- do the
14 two of you celebrate Christmas together in some way?
15 A. I don't recall.
16 Q. What do you recall her doing last
17 year for Christmas?
18 A. I don't.
19 Q. Were you aware last year Christmas
20 that she had this tumor?
21 A. I can't tell you for sure. I'm not
22 that good with dates. I believe she may have. I'm
23 not sure.
24 Q. When she told you she had been told
25 she had a tumor and they were going to have to do a

71

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 biopsy, what did she say to you about the size of the
2 tumor?
3 MS. CHABER: Lacks foundation that she said
4 anything.
5 THE WITNESS: She didn't tell me anything
6 about the size.
7 BY MR. MILES:
8 Q. What did she say to you about the
9 tumor at the time she first told you they had found a
10 tumor?
11 A. She said it's between the lung and
12 the heart.
13 Q. Did she say other things about the
14 tumor?
15 A. I don't recall specifically that she
16 did.
17 Q. Did the two of you discuss the
18 possibility that it might be cancer?
19 A. Yeah, I believe so.
20 Q. What did you say to each other about
21 that?
22 A. Not much. Told her to wait and see
23 what the biopsy said.
24 Q. When you talked about it, what was
25 her kind of state of mind about it in terms of

72

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 whether it was going to be cancerous, whether it
2 wasn't going to be cancerous?
3 A. I can't speak for her state of mind.
4 I know what mine was.
5 Q. Did she make any comment about
6 whether she was optimistic, pessimistic, anything
7 like that?
8 A. No.
9 Q. What was your state of mind?
10 A. I didn't like the idea.

11 Q. Was there any discussion about
12 whether a biopsy had already been scheduled for her?
13 A. They said they were going to work on
14 getting her a date for it.
15 Q. Did she discuss with you the need to
16 apply to City of Hope to have the treatment done
17 there, to have the biopsy done there?
18 A. She did apply there, I believe.
19 Q. Had she told you there was a tumor
20 before she applied to City of Hope?
21 A. I don't recall when she applied at
22 the City of Hope. She didn't tell me that. I didn't
23 know those dates.
24 Q. Do you know where the biopsy was
25 ultimately done?

73

COMBS & GREENLEY (415) 512-1234, A LegaLink Company

1 A. Do I know?
2 Q. Yes.
3 A. Yes.
4 Q. Where was it done?
5 A. UCLA Med Center. No. USC Med
6 Center. Excuse me.
7 Q. What was your understanding as to why
8 it was done there instead of City of Hope or
9 somewhere else?
10 A. City of Hope turned her down for
11 admittance and the biopsy was done there.
12 Q. Were you aware that the City of Hope
13 had turned her down between the time that you knew
14 that she had the tumor and the time that she had the
15 biopsy done?
16 A. Was I aware of it? Yes.
17 Q. Up to the time of the biopsy being
18 done, was there any discussion between the two of you
19 as to whether there was any connection between her
20 tumor and her smoking?
21 A. We didn't discuss it.
22 Q. At any time has she ever discussed
23 with you whether she believes there's any connection
24 between her tumor and her smoking?
25 A. We didn't discuss it.

74

COMBS & GREENLEY (415) 512-1234, A LegaLink Company

1 Q. At any time?
2 A. It was a subject -- I didn't want to
3 hear about it to start with. I didn't like the idea
4 of her having it.
5 Q. I understand that.
6 So I take it you've not talked about
7 any connection there might or might not be between
8 smoking and her tumor; is that true?
9 A. Yes.
10 Q. When did you find out that she either
11 was going to or had filed this lawsuit?
12 A. I didn't know the specific date.
13 Q. Did you know that she was going to
14 file a lawsuit before she filed it?
15 A. I don't think we discussed that.
16 Q. When is the first time you heard of a
17 lawsuit?
18 A. When she told me that it was ongoing,
19 I guess.

20 Q. Did you know of the lawsuit before
21 her deposition was taken?
22 A. Did I know of it before her
23 deposition? When was her deposition taken?
24 Q. In July.
25 A. Yes, I suppose I did.

75

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 Q. Has she ever asked you to help her in
2 any way with the lawsuit? I'm not referring to your
3 testimony, but gather information or to contact
4 people or do anything like that?
5 A. No.
6 Q. Do you know if Diane Strot has been
7 helping her in the lawsuit?
8 A. I know Diane Strot is a good friend
9 of hers and probably has been.
10 Q. Are there other people that you have
11 observed to help Ms. Henley in this lawsuit in terms
12 of gathering information or doing something else?
13 A. No. I'm not aware. She has a
14 multitude of friends.
15 Q. Who are her friends, Ms. Henley's
16 friends that you are referring to?
17 A. Well, family, Diane, Bill, Bruce,
18 just I would imagine they've already got a list of
19 her friends.
20 Q. I have a list. I'm trying to find
21 out who you would characterize as people who are her
22 friends.
23 A. Some probably I don't even know.
24 Q. Bill is who? What is Bill's last
25 name?

76

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 A. I don't know.
2 Q. When is the last time that Ms. Henley
3 did any work outside the home?
4 A. It may have been when she stopped
5 working at Pitman.
6 Q. Do you know whether she ever worked
7 for ADM?
8 A. Probably.
9 Q. Do you know that she did or are you
10 speculating?
11 A. Well, she probably did.
12 Q. In terms of the work done by B and B,
13 was that all wholesale work as opposed to retail?
14 A. Mostly, yes.
15 Q. Did B and B ever advertise in the
16 yellow pages?
17 A. No.
18 Q. Does Reyes Rooting advertise in the
19 yellow pages?
20 A. No.
21 Q. In terms of the calls that B and B
22 would receive, would these routinely be from plumbers
23 as opposed to members of the public?
24 A. Yes.
25 Q. And were there -- Ms. Henley

77

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 indicated that the bulk of the work came from two

2 plumbing companies.
3 A. Probably, yeah.
4 Q. Can you give me their names, those
5 two companies?
6 A. One would have been Pitman. The
7 other one would have been probably Levko.
8 Q. Those are the two she mentioned. How
9 do you spell --
10 A. L-e-v-k-o.
11 Q. K-o as opposed to c-o?
12 A. Yes.
13 Q. Now, were there other plumbers that
14 referred work to B and B?
15 A. Oh, probably, yes.
16 Q. Are there any you can identify
17 that --
18 A. Oh, no. You'd have to go back and
19 ask her.
20 Q. Was there ever a time when B and B
21 stopped working for plumbers for any reason other
22 than possibly that the plumber didn't pay its bill?
23 A. Yes.
24 Q. When was that?
25 A. I can't give you a date on it.

78

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 Q. Why did B and B stop working for
2 other plumbers?
3 A. It became a communication problem. I
4 was doing the job and they kept popping up on the job
5 like they weren't sure that we were doing it or
6 that -- they were more or less questioning your
7 ability to do any kind of work. From that point we
8 said you're not happy. We're out of here.
9 Q. Did it happen with more than one
10 plumber?
11 A. No.
12 Q. Just one plumber?
13 A. Yes.
14 Q. When was that that you refused to
15 work for?
16 A. Levko.
17 Q. When did you stop working for Levko?
18 A. Number of years back.
19 Q. Did you start working for them at
20 some point?
21 A. Yes.
22 Q. When was the period of time when
23 B and B did not work for Levko?
24 A. I don't recall the dates. But it
25 lasted for about two years, maybe a little bit more.

79

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 Somewhere like that.
2 Q. Was that two-year period before or
3 after you went into the hospital?
4 A. Oh, way before.
5 Q. Who was the person at Levko that you
6 dealt with in the latter stages?
7 A. Harold.
8 Q. Do you know Harold's last name?
9 A. Levitz.
10 Q. In terms of the field work done by

11 B and B, did the company use chemicals for any of the
12 work that you did?
13 A. No.
14 Q. Was it strictly using the rooting
15 tools?
16 A. Yes.
17 Q. Was there any procedure that was
18 followed routinely to determine whether there were
19 any chemicals in the pipes before you put the rooting
20 tools in?
21 A. All you had to do was touch it, touch
22 the water.
23 Q. How would that tell you if there were
24 chemicals in it?
25 A. If your fingers came back all slick

80

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 and slimy and slippery, it had acid in the line.
2 Q. So was it your procedure that you
3 would always --
4 A. Sometimes they would tell us.
5 Q. Was it your procedure that you would
6 always check to see if there were chemicals in the
7 line before you'd root it?
8 A. Yes.
9 Q. Was there any procedure of always
10 asking whether there was chemicals in the line when
11 you took the calls?
12 A. Yes.
13 Q. What was the procedure?
14 A. Just call them and ask them if they
15 used anything. Sometimes they'd say when they called
16 in they'd say we used this and it didn't work. Or we
17 would say have you used anything.
18 Q. Right. If they said they had used
19 something, what was the procedure that you followed?
20 A. Tell them to pour a bottle of vinegar
21 down there and I'll see you tomorrow.
22 Q. Now, the calls, would the calls
23 routinely come from the plumbers?
24 A. Yes.
25 Q. Were any calls coming into the

81

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 business from the public itself?
2 A. Very rarely.
3 Q. Did B and B's truck have the B and B
4 logo on the side of it?
5 A. No.
6 Q. Was this for the purpose of not
7 identifying the fact that the work was being done by
8 a subcontractor as opposed to the plumber?
9 A. Correct.
10 Q. How would a member of the public get
11 the telephone number for B and B to call you?
12 A. General public wouldn't.
13 Q. What is Ms. Henley doing now in terms
14 of daily activities?
15 A. Staying home.
16 Q. Is she doing anything on her singing
17 now?
18 A. No.
19 Q. In 1997, how much was she going out

20 to sing in public?

21 A. I have no idea.

22 Q. Why do you say that?

23 A. We weren't living together.

24 Q. In '97 you were not?

25 A. I don't believe so.

82

COMBS & GREENLEY (415) 512-1234, A LegaLink Company

1 Q. Are you living together now?

2 A. Yeah. Wait a minute.

3 MS. CHABER: It was last year.

4 THE WITNESS: Yeah. I lost you. I'm

5 sorry. '97.

6 MR. MILES: I'm talking about 1997.

7 MS. CHABER: When you say last year, that
8 will help him.

9 MR. MILES: Last year is hard because it
10 gets confusing on the record in 1999.

11 Q. In 1997 how often was Ms. Henley
12 going out to sing in public? By that I mean, get up
13 in front of a group with a band behind her to sing?

14 MS. CHABER: Are you limiting it to a band
15 behind her to sing or when she took her own music?

16 BY MR. MILES:

17 Q. I'm not talking about singing on the
18 sidewalk walking to the grocery store.

19 A. It all depends when her friends would
20 ask her.

21 Q. How often do you recall her going out
22 to sing?

23 A. I didn't really keep track of it.

24 Q. Was it less than once a month, more
25 than once a month?

83

COMBS & GREENLEY (415) 512-1234, A LegaLink Company

1 A. Maybe once a month.

2 Q. Do you know whether she ever recorded
3 any music?

4 A. Yes.

5 Q. What is your understanding?

6 A. She did.

7 Q. And did she ever try to sell music
8 she recorded?

9 A. No.

10 Q. When you say she recorded music, what
11 are you talking about?

12 A. She made a few tapes.

13 Q. Did she actually sing on the tapes?

14 A. Yes.

15 Q. Did she ever say why it was she
16 didn't try to sell those tapes?

17 A. No.

18 Q. Did you ever meet Alex Longrifle?

19 A. Yes.

20 Q. How did you meet him?

21 A. Through her.

22 Q. Did he come to the house or did you
23 meet him somewhere else?

24 A. I don't recall originally where it
25 was that I met him. But I did see him. And I know

84

COMBS & GREENLEY (415) 512-1234, A LegaLink Company

1 him.

2 Q. What is your impression of him?
3 A. What is my impression of him?
4 Q. Yes.
5 A. He's a nice guy.
6 Q. Did you ever go to any of the
7 performances of his band where Ms. Henley sang?
8 A. Of his band, yes.
9 Q. Where she sang?
10 A. Yes.
11 Q. Where did you go?
12 A. Here.
13 Q. Holiday Inn here?
14 A. Yes.
15 Q. Which of the bars here did she sing
16 in?
17 A. The one right across the diner
18 upstairs.
19 Q. Do you happen to know the name of
20 it? Is it the one that has Keroake on it down the
21 hall?
22 A. Yes. Exactly.
23 Q. When -- do you recall what year it
24 was you went there?
25 A. No, I don't.

85

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 Q. Was it while you and Ms. Henley were
2 living together?
3 A. No.
4 Q. Before you moved in together?
5 A. Yes.
6 Q. Was there smoking allowed when you
7 went in?
8 A. Yes.
9 Q. Have you ever seen any of the bar
10 signs that say smoking causes cancers?
11 A. At the bars?
12 Q. In any bars?
13 MS. CHABER: Lacks foundation. Calls for
14 speculation. Vague and ambiguous as to time. You
15 mean today, Counsel?
16 MR. MILES: Any time. The question is any
17 time.
18 THE WITNESS: Some bars, yes.
19 BY MR. MILES:
20 Q. What was your reaction when you saw
21 those signs?
22 A. To the sign?
23 Q. Yes.
24 A. My reaction was when did this go up
25 and why. It pertains to two subjects, I believe.

86

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 The other one is including pregnancy.
2 Q. Do you recall a proposition in
3 California --
4 A. No.
5 Q. Do you remember when they put a tax
6 on tobacco and tobacco products? Did you ever
7 discuss with the plaintiff --
8 A. No.
9 Q. Let me finish my question.
10 Did you ever discuss with the

11 plaintiff the fact that the price of cigarettes was
12 going up?
13 A. No.
14 Q. Did she ever complain about the cost
15 of smoking to you?
16 A. No.
17 Q. Do you recall when smoking became
18 prohibited in all restaurants in California?
19 A. Do I recall when?
20 Q. Or that it happened?
21 A. That it happened, yes.
22 Q. What was your reaction to that?
23 A. I didn't like it.
24 Q. Do you recall Ms. Henley ever
25 expressing her feelings about the fact that she

87

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 couldn't smoke in a restaurant?
2 A. I didn't discuss it with her.
3 Q. Did she ever discuss her feelings
4 about prohibition against smoking at bars?
5 A. She made a comment. You can't smoke
6 in bars no more. That was it.
7 Q. In terms of risks associated with
8 smoking, have you ever had any discussions with
9 Ms. Henley about the fact that smoking might hurt her
10 health?
11 A. No.
12 Q. Have you been present when either of
13 her daughters has encouraged her not to smoke in the
14 past?
15 A. No.
16 Q. Was it your observation that her
17 oldest daughter did not smoke?
18 A. Was it my observation?
19 Q. Yes. That Star did not smoke?
20 MS. CHABER: Ever?
21 BY MR. MILES:
22 Q. At some point that she did not smoke,
23 was a non-smoker?
24 A. Yes.
25 Q. And was it your observation that the

88

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 daughter was encouraging her mother to stop smoking?
2 A. I have no idea.
3 Q. During the time that you and
4 Ms. Henley have lived together since you moved back
5 in together, has anyone in your presence ever
6 encouraged Ms. Henley to stop smoking?
7 A. No.
8 Q. When you smoke cigars, do you smoke
9 them in the house that you and Ms. Henley occupy
10 together?
11 A. No.
12 Q. Have you ever at any time in the
13 past?
14 A. Yes.
15 Q. When did you stop smoking in the
16 past?
17 A. I can't give you a date on that.
18 Q. Was it before or after -- well -- was
19 there something that prompted you to stop smoking

20 them in the house?
21 A. Yes.
22 Q. What was it?
23 A. Her coughing. When she got sick.
24 Q. Were you smoking cigars before she
25 was diagnosed as having a tumor?

89

COMBS & GREENLEY (415) 512-1234, A LegaLink Company

1 A. Was I smoking them before?
2 Q. Yes.
3 A. No, I don't think so.
4 Q. After you started smoking cigars, was
5 there a time you were smoking them in the house, that
6 you and Ms. Henley lived in together?
7 A. Not in her presence.
8 Q. Is smoking allowed in that house now?
9 A. No.
10 Q. Why do you say that?
11 A. Because I would be the only one that
12 smokes.
13 Q. Are there other people that come into
14 the house?
15 A. Yes.
16 Q. Any of those people who smoke who go
17 outside to smoke as opposed to smoking in the house?
18 A. Put the butt out outside.
19 Q. Have there been people who have
20 smoked in the house in the past who no longer smoke
21 in the house?
22 A. Yes.
23 Q. Who is that?
24 A. Her cousin.
25 Q. Who is that?

90

COMBS & GREENLEY (415) 512-1234, A LegaLink Company

1 A. I believe it was her cousin.
2 Q. What is the cousin's name?
3 A. Charmaine, I believe.
4 Q. Do you know Charmaine's last name?
5 A. No, I don't.
6 Q. Do you know what it was that caused
7 Charmaine to stop smoking in the house?
8 A. Probably a discussion with -- no, I
9 really can't.
10 MR. MILES: Let's take about a ten-minute
11 break, let me go over my notes and see if we can't
12 finish up here.
13 (Brief recess.)
14 MR. MILES: Let's go back on the record.
15 Q. Did you ever help Ms. Henley to get
16 drugs from Mexico, I'm talking about prescription
17 drugs there?
18 A. No, I don't recall that.
19 Q. Did you ever go down with her to
20 Mexico to help her get any kind of medications there?
21 A. Oh, yeah.
22 Q. When was that?
23 A. Oh, I can't remember now. It was a
24 long time ago.
25 Q. More than ten years ago?

91

COMBS & GREENLEY (415) 512-1234, A LegaLink Company

1 A. Something like that.

2 Q. Have you ever gone with her in the
3 last ten years to help her get medications?
4 A. No.
5 Q. When she went down there to get
6 medications, what was she going down to get
7 medications for?
8 A. Basically, it was for me. They have
9 a little pain pill, it's a muscle relaxant is what it
10 is, just like this, dark blue, light blue, but if you
11 have sore muscles or you strain something, you got
12 pain, you take this pill, it's over with. It attacks
13 the pain in about an hour's time and you don't feel
14 the hurt no more, but it is a muscle relaxant and it
15 didn't leave you all druggy. You can still function.
16 Q. In terms of medications that
17 Ms. Henley was getting, what kinds of things was she
18 getting?
19 A. I have no idea.
20 Q. Do you recall her getting medications
21 as well as your getting medications?
22 A. She went to the doctor one time.
23 I've forgotten what the heck it was for, but he
24 didn't understand and he gave her something. I don't
25 know. I'm not sure.

92

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 Q. How often did you take her down to
2 Mexico to get medications for her?
3 A. It wasn't a question of medication,
4 we just went down there on a long weekend. That's
5 it. Came back.
6 Q. Is this only one trip that you took
7 or is this something that you did from time to time?
8 A. Our visits to Mexico were not
9 primarily to pick up any medications. They were for
10 relaxation purposes. That's it.
11 Q. Were these trips together during the
12 time that you had a romantic relationship?
13 A. Yes.
14 Q. After you terminated the romantic
15 relationship, would the two of you go to Mexico
16 together --
17 A. No.
18 Q. -- during which time you would pick
19 up medications?
20 A. No.
21 Q. Did Ms. Henley ever indicate to you
22 that she had a problem with migraine headaches?
23 A. Yes.
24 Q. Were you ever present at a time when
25 she said she was having a migraine headache?

93

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 A. Yes.
2 Q. How would they affect her?
3 A. They'd knock her down they were so
4 bad. I mean, she wouldn't move. The pain was
5 evidently excruciating.
6 Q. Was there ever any discussion with
7 her about any possible link between her migraine
8 headaches and her smoking?
9 A. No, I don't believe so.
10 Q. Did you ever discuss with her what

11 medications or treatments she took to try to prevent
12 or alleviate her migraine headaches?
13 A. She built up a tolerance, I believe,
14 to her Anacin. Then she had an ulcer so she couldn't
15 take other things.
16 Q. Did she take any steps to try to stay
17 healthy?
18 MS. CHABER: Vague and ambiguous.
19 I said it's vague and ambiguous. I
20 don't know what he's talking about or what he means.
21 If you do, I suppose you can answer.
22 THE WITNESS: She has always been majority
23 of the time a very healthy person. She doesn't --
24 she rarely gets sick. When she does it's a pretty
25 good one.

94

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 BY MR. MILES:
2 Q. What I'm talking about is steps that
3 she would take routinely to try to keep good health?
4 A. Vitamins, things like that?
5 Q. A lot of things, vitamins, people
6 exercise, people adopt certain regimens they think
7 will keep them healthy, copper bracelets. I can't
8 even begin to give them all that people do to try to
9 stay healthy or to become healthy. I'm trying to
10 find out if Ms. Henley did anything she did to try to
11 stay healthy or get healthy?
12 A. Not specifically. She's always been
13 an active person. Her normal day was an exercise.
14 Or was.
15 Q. Did she take vitamins at all?
16 A. Does she, no.
17 Q. Has she at any time that you've known
18 her taken vitamins?
19 A. Not that I know of.
20 Q. Did B and B at any time have an
21 outside accountant?
22 A. Not that I'm aware of.
23 Q. How about a person who prepared tax
24 returns or tax reports?
25 A. Again, I'm not aware of it.

95

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 Q. How about an outside bookkeeper?
2 A. I don't know.
3 Q. Was there ever a time when there was
4 a woman somehow affiliated with you who did
5 bookkeeping or tax reports for B and B?
6 A. Like I said before, my work was in
7 the field. Not in the office. If there was somebody
8 brought in, she would have had control over that. As
9 far as my knowledge is concerned, I have no idea.
10 Q. Was there ever a time when you had a
11 woman, Ms. Henley referred to as your girl, I'm not
12 sure if she meant your daughter or your girlfriend or
13 some friend of yours who is female that's why I'm a
14 little bit vague about who it is I'm talking about,
15 was there any time that there was some female
16 associated with you in some capacity who did
17 bookkeeping or reports like tax returns or tax
18 reports for B and B?
19 A. To tell you the truth, I don't

20 remember.

21 Q.

22

23 A.

24 Q.

25 A.

96

COMBS & GREENLEY (415) 512-1234, A LegaLink Company

1 Q.

2 A.

3 Q.

4 A.

5

6 Q. [DELETED - PERSONAL INFORMATION]

7

8

9 MS. CHABER:

10

11 MR. MILES:

12 MS. CHABER:

13 THE WITNESS:

14

15 BY MR. MILES:

16 Q.

17 A.

18

19 Q. [DELETED - PERSONAL INFORMATION]

20

21 A.

22

23 Q. Did you have health insurance through

24 B and B?

25 A. No.

97

COMBS & GREENLEY (415) 512-1234, A LegaLink Company

1 Q. Did plaintiff ever have health

2 insurance that you are aware of?

3 A. Did who?

4 Q. Ms. Henley. I call her the plaintiff
5 from time to time. I apologize for that.

6 Did Ms. Henley at any time have
7 health insurance that you are aware of?

8 A. No.

9 Q. Did you ever regard B and B to be in
10 competition with Roto-Rooter?

11 A. Yes.

12 Q. How did you compete with Roto-Rooter?

13 A. You do the same work.

14 Q. Do they do wholesale rooter?

15 A. They do it both ways, I assume. I
16 don't know any of their business. I know we do the
17 same basic work.

18 Q. Was there ever a time that B and B
19 had an office other than one of the homes or
20 apartments where you or Ms. Henley lived?

21 A. Paid for by B and B?

22 Q. Paid for by anybody.

23 A. Well, if you consider having the
24 office work out of Pitman's, I assume that you could
25 call that an office.

98

COMBS & GREENLEY (415) 512-1234, A LegaLink Company

1 Q. Did you pay anything for that

2 office? By you, I mean B and B. Did B and B pay for
3 that office?
4 A. No. She was an employee of Bill's.
5 Q. Other than the Pitman office, was
6 there ever a time when B and B had an office?
7 A. Not to my recollection.
8 Q. Did B and B have regular hours both
9 you and Ms. Henley were expected to keep?
10 A. Yes.
11 Q. What were the regular hours you were
12 expected to keep?
13 A. We were a 24-hour service. What
14 hours you want to name?
15 Q. Well, I understand the concept that
16 if you get a call, you have to respond to the call.
17 I'm talking about where it is expected that even if
18 you don't have a call you are expected to be there.
19 A. Well, it all depended on time. As an
20 example, let's say I work tonight until maybe 12:30,
21 1 o'clock. I wouldn't be out in the field at
22 7:00 a.m. in the morning. I wouldn't be out in the
23 field until maybe about 9:00. That's the way to make
24 up -- so you don't go jeopardizing yourself and
25 making a mistake on the job hurting yourself or doing

99

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 damage to a residence.
2 Q. Right. So in terms of the
3 expectation what hours you would keep --
4 A. You mean average of hours?
5 Q. B and B, not your current work. When
6 you guys had B and B, what kind of hours?
7 A. Same hours. Between 8:00 and 4:00.
8 Q. 8:00 in the morning and 4:00 in the
9 afternoon?
10 A. Yes.
11 Q. What equipment did B and B have at
12 the time it was last in existence?
13 A. Large sewer machine and an
14 intermediate machine, handgun auger, and I don't
15 suppose you would want to know the hand tools.
16 Q. I don't want the little tools. Did
17 it have a pick-up?
18 A. Did I have a pick-up?
19 Q. Did the business have a car?
20 A. Yes.
21 Q. What was the car that it had?
22 A. Chevy Love. Pickup truck.
23 Q. I take it by your hand gesture it's
24 sitting in the parking lot?
25 A. Yes, sir.

100

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 Q. Was it at some point transferred from
2 B and B to Reyes Rooting?
3 A. It's been the same registered owners,
4 hers and mine.
5 Q. Is she still the registered owner of
6 the car?
7 A. We both are. We registered the
8 vehicle, Patricia or Jose.
9 Q. The other equipment, were those
10 transferred over to your company, Reyes Rooting?

11 A. We owned it outright to start with.
12 If you consider that the name change, a transfer,
13 then I suppose you're right.
14 Q. Totally different topic. In terms of
15 magazines that come into the house where you and
16 Ms. Henley live, are there any magazines that are --
17 that come in as subscriptions?
18 A. I don't know. I'm not home when the
19 mail comes.
20 Q. In terms of seeing them around there,
21 are there magazines routinely around the house?
22 A. No.
23 Q. Is there a newspaper delivered to the
24 house?
25 A. Yes.

101

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 Q. Who subscribes to the newspaper?
2 A. I think she does.
3 Q. What paper is it?
4 A. L.A. Times.
5 Q. Has that always been true during the
6 time you've lived together?
7 A. Yes.
8 MS. CHABER: You mean this last time? Are
9 you including when they lived --
10 BY MR. MILES:
11 Q. Talking about the most recent time.
12 A. Yes.
13 Q. You understood that when you answered
14 my question; right?
15 A. Yeah.
16 Q. How about the first time you lived
17 together, was she getting the paper then?
18 A. For a period of time, yes.
19 Q. Was that the L.A. Times?
20 A. Same one.
21 Q. How often does Ms. Henley's mother
22 come over to see her at the house?
23 A. I really couldn't answer that. I see
24 her sometimes, but I don't see her all the time. She
25 comes to visit later in the day if and when she comes

102

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 over so I'm not aware of her comings and goings.
2 Q. You don't know how often she comes?
3 A. No.
4 Q. Has Ms. Henley at any time expressed
5 any concern about ammonia to you?
6 A. Ammonia?
7 Q. Yes.
8 A. I don't recall. I don't think so.
9 Q. When is the last time that you were
10 aware of Ms. Henley's younger daughter living with
11 her?
12 A. When is the last time I recall her
13 daughter living with her?
14 Q. Yes.
15 A. I think it was last year. I believe
16 it was last year. You are talking about the younger,
17 aren't you?
18 Q. Yes. This is in 1997 that the
19 younger daughter lived with her?

20 A. I believe so.
21 Q. That was during the time you lived
22 there also?
23 A. No. I didn't get there till later.
24 Q. When did you start living with --
25 A. Shortly after her daughter moved

103

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 out. Her -- she got an apartment and that was the
2 end of that. By this time, I was still in my old
3 apartment, and that's when the other room in the
4 house became vacant, the other bedroom.
5 Q. When you -- what was the place you
6 gave up to move in with Ms. Henley?
7 A. What was the place?
8 Q. The address you left?
9 A. DELETED.
10 MR. MILES: Could you read it back to me.
11 (Record read.)
12 BY MR. MILES:
13 Q. DELETED.
14
15 A. Uh-huh.
16 Q. Is that how they designate streets in
17 Los Angeles?
18 A. In this particular part of the city,
19 yes.
20 Q. Tell me how that works. I don't know
21 how that works.
22 A. Starting down -- it's called the
23 avenues there, got a big street gang, kind of a
24 neighborhood, but the streets some of them have
25 names, others are avenues, 55th Avenue, Fourth, 53rd,

104

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 60, 66, all the way up and it starts from the L.A.
2 River just about on Avenue 26 which is somewhere
3 around San Fernando Road, Riverside Drive and then
4 works it's way north.
5 Q. So it would be like DELETED.
6
7 A. Uh-huh.
8 Q. I understand now.
9 MS. CHABER: You didn't have anything to do
10 with naming the streets, did you?
11 THE WITNESS: No.
12 BY MR. MILES:
13 Q. I do appreciate your explaining it to
14 me.
15 A. That's the only part of the city --
16 there is another place up on Adams, but this only
17 goes to nine or ten.
18 MR. MILES: All right. Tell you what,
19 rather than me take the time of going through my
20 notes, I'll turn it over to whoever wants to go next
21 and look.
22 ///
23 ///
24 ///
25 ///

105

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 EXAMINATION

2
3 BY MR. ROWLAND:
4 Q. Do you like going by Joe or Jose?
5 A. Either way.
6 Q. I've -- I'm the slowest person
7 thinking in this room. I work chronologically and
8 I've been trying to make a time line here and it's a
9 mess. I'm more interested in the relationship of
10 when things happened rather than the exact date of
11 when things happened so I'm not interested in pinning
12 you down to the exact date which I guess is a good
13 thing; right?
14 A. Yes.
15 Q. As I've got it, you met Patricia
16 Henley in about 1973 or thereabouts. And you saw her
17 from time to time and then about 1975 you had a
18 romantic relationship with her; is that correct?
19 A. Yeah.
20 Q. And then in 1975 or 1976 you and
21 Patricia lived together; is that correct?
22 A. Yes.
23 Q. And your romantic relationship ended
24 in approximately 1979 or 1980; is that right?
25 A. Yeah. Something like that.

106

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 Q. You moved out; right?
2 A. Uh-huh.
3 Q. Yes?
4 A. Yes.
5 Q. And then the next thing I've got is
6 sometime in the late 1980's, maybe early 1990's you
7 quit smoking; is that right?
8 A. Yes.
9 Q. And that was in conjunction with what
10 may have been some kind of a stroke involving a
11 ruptured blood vessel in your eye; is that right?
12 A. That's correct.
13 Q. And then here it gets really bad for
14 me. The 1994, 1995 time period at some point and let
15 us go up to 1996, at some point between 1994 and
16 1996, were you hospitalized?
17 A. Yes.
18 Q. Was that in connection with what may
19 have been considered as a stroke?
20 A. No. It became a situation where they
21 assumed the causes of stroke -- they were doing a
22 bunch of tests on me; okay. And after this one cat
23 scan, they said you have a problem in your throat,
24 your neck, carotid arteries. Both of them were
25 closing down.

107

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 Q. All right. That's enough. I don't
2 want to get into your personal -- I knew you were
3 hospitalized and I didn't know what the time frame
4 was.
5 Q. Was the hospitalization before you
6 formed Reyes Rooter or after?
7 A. Before.
8 Q. And then it also -- the
9 hospitalization would have been before ADM was
10 formed; is that right?

11 A. Yes.
12 Q. And I believe that ADM --
13 A. I believe it was -- I believe my last
14 answer is correct. I'm not too sure of that.
15 Q. Well, was Reyes Rooter and ADM, were
16 they formed about the same time?
17 A. No.
18 Q. Which was formed first?
19 A. I believe ADM was. I know ADM was.
20 Q. Was there still a B and B Rooter when
21 ADM was formed?
22 A. I have no idea when its formation
23 date was.
24 Q. Being ADM's?
25 A. That's right.

108

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 Q. Was it Star Mohr that formed ADM?
2 A. Yes.
3 Q. Was she operating a separate business
4 as ADM at some point while B and B Rooter was still
5 in operation?
6 A. I believe that's true, yes.
7 Q. Was Patricia Henley running B and B
8 at that time?
9 A. When I was in the hospital?
10 Q. Yes.
11 A. Yes.
12 Q. After you got out of the hospital and
13 we're in the time period '94 to '96, was B and B
14 dissolved?
15 A. She was still running the company.
16 Q. Why didn't you go back to B and B?
17 A. Because I couldn't. I was unable
18 to. I was off for a year.
19 Q. Did you -- how long was it after you
20 were released from the hospital that you moved back
21 in with Ms. Henley?
22 A. Years.
23 MS. CHABER: Don't guess if you don't know,
24 Joe. You should note there's been a fairly long
25 pause.

109

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 BY MR. ROWLAND:
2 Q. Let me see if we can work this out,
3 Joe. The earliest date that I'm coming up with on my
4 time line except for the formation of ADM and we
5 don't know that date; is that right?
6 A. I don't.
7 Q. Then I don't either. We'll find out
8 tomorrow.
9 The earliest date I've got in this
10 time period is about 1994. Does that sound about the
11 time when you were hospitalized?
12 MS. CHABER: He gave you a range, Counsel,
13 from '4 to '96. Trying to pin him down, just what
14 you told him you were not going to do.
15 MR. ROWLAND: You hang in there, Madelyn.
16 He's smarter than I am.
17 THE WITNESS: You are a very sneaky person.
18 BY MR. ROWLAND:
19 Q. You are hospitalized first and you

20 lived with -- moved in with Ms. Henley after you got
21 out of the hospital?
22 A. No.
23 Q. Before?
24 A. No.
25 Q. You don't know?

110

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 A. Yes.
2 MS. CHABER: No. That's not what he said.
3 MR. MILES: He's interpreting it immediately
4 after.
5 THE WITNESS: When I came out of the
6 hospital I still had my apartment. She was still
7 somewhere else.
8 MR. ROWLAND: Right.
9 Q. It was --
10 A. After I had gone back to work and
11 sometime after that, we got together again.
12 Q. It's fitting together.
13 You don't know how long a time period
14 that was?
15 A. No.
16 Q. That's fine.
17 And it was some time period after
18 that that you formed Reyes Rooter?
19 A. Uh-huh.
20 Q. Yes?
21 A. Yes.
22 Q. During the time period when you were
23 hospitalized and the time you moved out --
24 A. Of my apartment?
25 Q. No. Going back now to the time you

111

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 moved out after living with Ms. Henley, '79, 1980,
2 somewhere in there and the time you were
3 hospitalized, how much contact did you have with
4 Ms. Henley?
5 A. Daily.
6 Q. We've got a 14-year time period from
7 1980 to 1994 to '96. You had daily contact with her
8 during those 14 years?
9 MS. CHABER: They were in business together,
10 Counsel.
11 MR. ROWLAND: Okay. Okay.
12 THE WITNESS: By contact, I don't mean
13 seeing her every day. We were on the phone or
14 talking one way or another communicating.
15 MR. ROWLAND: Thank you for clearing that
16 up.
17 Q. When did you -- when was the first
18 time you started working with Ms. Henley?
19 A. When?
20 Q. Yes.
21 A. Sometime in the mid seventies, I
22 think.
23 Q. Was it during the time period when
24 you were living together?
25 A. Yes. I think so. I was driving a

112

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 truck.

2 Q. And you worked with her continuously
3 until you went into the hospital?
4 A. Yes.
5 Q. Are you presently doing any work for
6 Pitman and Sons Plumbing?
7 A. From time to time, yes.
8 Q. Is Dale still there?
9 A. Yes.
10 Q. Which office is he at?
11 A. He's on Robertson, South Robertson,
12 1300 block. I can't remember specifically.
13 Q. What is his last name?
14 A. Pitman.
15 Q. Makes sense.
16 Do you know Walt Belding,
17 B-e-l-d-i-n-g?
18 A. Walt?
19 Q. Mr. Belding?
20 A. I know a Ron. I know a Marion.
21 Walt?
22 Q. Marion is related to Patricia;
23 correct?
24 A. Yes.
25 Q. Have you ever heard of a Walt

113

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 Belding?
2 A. Not that I'm aware of.
3 Q. Do you know where Marion lives now?
4 A. It's Ron.
5 Q. Where is he?
6 A. Home probably.
7 Q. Where is that?
8 A. I don't know where he lives. I just
9 see him every once in a while. He comes by and
10 that's it.
11 Q. Do you know if he lives in town?
12 A. He should be in town.
13 Q. At the -- working at Ronald Rooter?
14 A. Yes.
15 Q. They're a competitor?
16 A. We are all in the same business. No
17 competition. We have different clienteles, that's
18 all.
19 Q. When Patricia Henley was working in
20 the Pitman and Son's office, she was working for
21 them; correct?
22 A. For whom?
23 Q. For Pitman at some point.
24 A. Yes.
25 Q. Was she dispatching jobs; was that

114

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 part of her duties?
2 A. Dispatching jobs for who?
3 Q. For people like B and B?
4 A. We had a separate phone there.
5 Q. Correct. Would Pitman get jobs and
6 send them to B and B from time to time?
7 A. Yeah. She'd just look across the
8 desk and say, go do this, would you. That's it.
9 Q. You had indicated, I believe, if you
10 didn't come out and say it, I'll ask you, would you

11 consider Patricia Henley to be a stubborn person?
12 A. Stubborn?
13 Q. Stubborn.
14 MS. CHABER: Vague and ambiguous as to what
15 you mean.
16 THE WITNESS: That all depends on what your
17 definition is. I know she's a strong-willed person.
18 BY MR. ROWLAND:
19 Q. That's one definition of stubborn. A
20 mind of her own?
21 A. Yes. I'm glad.
22 Q. Intelligent?
23 A. I think so. For someone who didn't
24 finish very much schooling, she is --
25 Q. What leads you to believe -- what

115

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 types of things lead you to believe that Patricia is
2 an intelligent person?
3 A. She is a quick study on any given
4 thing you want to hand her, self-taught with the
5 computer which she operates I would say fairly well.
6 Q. Is that something recent?
7 A. As far as computers in the workplace,
8 yes, I would say so.
9 Q. I mean with Patricia, is this
10 something that she's been interested in for some
11 time?
12 A. No. She was not interested in it.
13 Just like a matter of attrition, some things fall off
14 and other things take their place. If you don't stay
15 with them, they pass you by.
16 Q. How long has Patricia been computer
17 literate as far as you know?
18 A. I really couldn't tell you. I really
19 couldn't. I think it started when she was an
20 employee of Pitman's. Because he got into the
21 computer thing and more or less she was forced into
22 it.
23 Q. Was this some years before she was
24 diagnosed as being ill?
25 A. Oh, yeah.

116

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 Q. Did she have a computer at home?
2 A. Does she?
3 Q. Did she before she was diagnosed --
4 A. No.
5 Q. During the time you lived together
6 back in the '75, '76 to the 1979, 1980 time period,
7 what types of things would you do for recreation with
8 Patricia, if anything?
9 A. We tried tennis one time, but she
10 kept swinging that thing like a bat and I got tired
11 of chasing balls so we cut that out. Recreation, she
12 could shoot pool pretty good. Because she had that
13 bladder problem, I think, she had something that was
14 the matter with her back, osteoporosis, horses were
15 out.
16 Q. You had a tv in the house, would the
17 two of you sit and watch tv?
18 A. Yeah.
19 Q. What kind of programs?

20 A. Yeah.
21 Q. What kind of programs?
22 A. Everything.
23 Q. Watch news programs, things like
24 that?
25 A. Yes.

117

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 Q. Was Patricia up on current events?
2 MS. CHABER: Vague and ambiguous.
3 BY MR. ROWLAND:
4 Q. During the time you lived together?
5 A. What are we talking about?
6 Q. What's going on, what's happening on
7 the front page?
8 MS. CHABER: Vague and ambiguous. Calls for
9 speculation. As far as you know.
10 BY MR. ROWLAND:
11 Q. As far as you know?
12 A. As far as I know?
13 Q. Yes.
14 A. I would say so. I would think she
15 would know what the heck was going on around her.
16 Q. She had no trouble engaging people in
17 intelligent conversations, did she?
18 A. No.
19 Q. You said she had a cough which was
20 what prompted her to go to a doctor which resulted in
21 the biopsy and her diagnosis; remember that?
22 A. Yes.
23 Q. For how long had she had that cough
24 before she went to see a doctor?
25 A. I don't know how long she had it. I

118

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 know that I was aware of it when it didn't go away.
2 Q. This isn't something she had had for
3 years as far as you know, was it?
4 A. I really couldn't tell you because I
5 was gone in the morning and come back in the evening
6 so what her day was like, I have no idea.
7 Q. Oh, the roommate that moved out that
8 had been living with Patricia in the 1995, '96 time
9 frame before you moved in, who was that?
10 A. Before I moved in?
11 Q. Yes.
12 A. Well, Raeanna, her daughter.
13 Q. That was the person that moved out
14 freeing up a place for you? Or was it somebody else?
15 A. I know she had another roommate at
16 one time.
17 Q. Was that Margaret Berk?
18 A. Yeah.
19 Q. Do you know where she is?
20 A. I haven't the foggiest idea. I know
21 she used to live up somewhere around Mariposa and
22 Fourth Street, but she hasn't moved back there. I
23 haven't seen her.
24 Q. You haven't seen her --
25 A. No. She always lived on this side of

119

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 town.

2 Q. That side being?
3 A. Nowhere close to us. The other side
4 of the park.
5 Q. That would be south, south of the
6 park?
7 A. Yeah.
8 MR. ROWLAND: Thank you, Joe.
9 MR. BAKER: I have just a few. I represent
10 Brown & Williamson Tobacco Company.
11 MS. CHABER: If he gives you the same
12 speech, don't believe him.
13 MR. BAKER: I'm dumb as a rock.
14

15 EXAMINATION
16

17 BY MR. BAKER:
18 Q. When Mr. Miles asked you some time
19 ago whether or not Ms. Henley ever went out on jobs
20 herself to unplug drains you chuckled a bit. Why did
21 you find that amusing?
22 A. As I remember, the first time when we
23 were first starting B and B, had a mainline to do and
24 I had to take the big machine down off the truck and
25 I set it over by the hole and she ran the machine to
120
COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 get it going, but it kind of got away from her
2 because it's three quarter inch cable and running 110
3 feet with blades on the end is kind of difficult
4 sometimes.
5 Q. Other than that particular time, do
6 you have any other specific recollection of her going
7 out doing a job herself?
8 A. By herself? Never by herself.
9 Q. Any other time with someone else?
10 A. Yes.
11 Q. How many other times?
12 A. Like I said, maybe two, three times.
13 Q. In the whole time that you worked
14 with her at B and B, you can remember two or three
15 times?
16 A. Yeah. I remember she rode with me,
17 but nothing physical. I might have had her look with
18 the probe to hear where the line was, that would be
19 some distance away from where the work was actually
20 taking place.
21 Q. Have you ever heard of Brown &
22 Williamson Tobacco Corporation, does that name mean
23 anything to you?
24 A. No.
25 Q. Can't identify any brands that they
121

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 might have made?
2 A. No. When I was smoking cigarettes I
3 was smoking the Marlboro.
4 Q. Is that all you smoked your entire
5 smoking career?
6 A. No.
7 Q. What else have you smoked?
8 A. When I started, I think I used to
9 steal them from my folks, Pall Malls.
10 Q. Have you ever heard of the American

11 Tobacco Company?
12 A. Yes.
13 Q. What have you heard about them?
14 A. That's it. I've heard of them.
15 Q. During the last few years, have you
16 heard anything about Brown & Williamson or American
17 Tobacco on the news, in the newspapers?
18 A. I believe they have some kind of
19 major suit going on back east somewhere.
20 Q. Where did you hear about that and
21 what did you hear about that?
22 A. Been in the newspaper.
23 Q. Did you ever talk to Patricia Henley
24 about that?
25 A. Nope.

122

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 Q. Have you ever talked to her about
2 anything involving tobacco products?
3 A. I don't get into that with her.
4 Q. You said she did smoke Marlboro
5 reds. Have you ever seen her smoke anything else in
6 the 25 years you knew her as a smoker?
7 A. No, I haven't. She may have. I have
8 no idea.
9 Q. When you smoked, were you aware that
10 there were warnings on cigarette packages?
11 MS. CHABER: Vague and ambiguous as to time
12 and as to warning.
13 THE WITNESS: When I started, there was
14 none.
15 BY MR. BAKER:
16 Q. Did there come a time when there was
17 a warning on it?
18 A. Yes.
19 Q. Did you read those warnings?
20 A. Doesn't everybody?
21 Q. My question is, did you?
22 A. No. I haven't any idea. Everybody
23 does.
24 Q. I'm sorry. Could you repeat that?
25 A. I'm not aware that everybody reads

123

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 the warning.
2 Q. My question is, did you read it?
3 A. Did I read it, yes.
4 Q. Did you ever talk to Ms. Henley about
5 the warnings on cigarette packages?
6 A. No.
7 Q. Have you had any relatives or close
8 friends that have had health problems that you've
9 associated with from smoking cigarettes?
10 A. I don't know if you can attribute it
11 to cigarette smoke. Smoking. I have no idea, but I
12 know a couple of people that have problems breathing,
13 they are -- one of them has just recently stopped
14 smoking.
15 Q. Did you ever discuss those folks'
16 problems with Ms. Henley in any way?
17 A. No.
18 Q. Is it your testimony that -- make
19 sure I understand it -- you have never, to your

20 recollection, discussed smoking with Ms. Henley?
21 A. You got a time frame for that?
22 Q. Any time. During the 25 years you've
23 known her as a smoker, did you ever talk about
24 smoking with her?
25 A. No.

124

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 Q. Never talked about health risks
2 associated with smoking with Ms. Henley?
3 A. No.
4 Q. In 25 years?
5 A. No.
6 Q. Have you retained Ms. Chaber to
7 represent you?
8 A. Is she my attorney; is that what you
9 are asking?
10 Q. Yes.
11 A. No.
12 Q. Okay. When was the first time you
13 spoke to Ms. Chaber?
14 A. Yesterday.
15 Q. What was that conversation about?
16 A. Just that I was going to have this
17 meeting here with you today and that I was going to
18 be under oath.
19 Q. That was the 20- or 30-minute
20 conversation that you mentioned to us earlier?
21 A. Yeah. Yes.
22 Q. What else was said during those 20 or
23 30 minutes, what all can you remember about what took
24 place during that conversation?
25 A. Remember to tell the truth, if you

125

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 are vague on something, say you don't remember, don't
2 go into lengthy explanation, you know, keep it
3 short. That's it.
4 Q. That's it?
5 A. Basically, yes.
6 Q. You met with her again today before
7 the deposition?
8 A. Yes.
9 Q. Did you discuss anything today about
10 what was going to happen here?
11 A. No. Just what I said right now, just
12 a reminder, like a refresher, stay on top.
13 MR. BAKER: I think that's all I have.
14 Thank you.
15 THE WITNESS: You're welcome.
16 MR. SANO: I have a few.

17
18 EXAMINATION
19
20 BY MR. SANO:

21 Q. My client is Anronico's Markets.
22 Have you ever heard of them?
23 A. No.
24 Q. Anronico's Markets has gone by a
25 couple of other names, Park and Shop Market, have you

126

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 ever heard of Park and Shop Market?

2 A. No.
3 Q. Anronico's Park and Shop Market, have
4 you heard of them?
5 A. No.
6 Q. So you've never bought cigarettes
7 from Anronico's Market? I'm talking about all of the
8 same markets I just told you. You've never bought
9 cigarettes from Anronico's Markets when you were
10 under 18?
11 A. No.
12 MS. CHABER: Lacks foundation he was ever
13 near an Anronico's Market.
14 BY MR. SANO:
15 Q. You don't know anything about
16 Anronico's Markets selling cigarettes to people under
17 18?
18 A. I don't go up north.
19 Q. So your answer is you do not know
20 anything about Anronico's Markets selling cigarettes
21 to people under 18?
22 A. No.
23 Q. Do you have any reason to believe
24 that Anronico's Markets ever sold cigarettes from
25 an -- to people under 18?

127

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 MS. CHABER: Lacks foundation. No
2 foundation for this witness to have an answer to
3 that. It's deceptive. If you're asking him that
4 question, if he answers one way or the other, it's an
5 assumption that he knows things about them.
6 BY MR. SANO:
7 Q. Can you answer my question?
8 A. Can I? Would you mind repeating it?
9 Q. Do you have any reason to believe
10 that Anronico's Markets has ever sold cigarettes to
11 people under 18?
12 MS. CHABER: Same objections.
13 THE WITNESS: I have no idea.
14 BY MR. SANO:
15 Q. You also have -- let me start this
16 over again.
17 Ms. Henley has made certain claims in
18 this lawsuit about health hazards of smoking. You
19 have no reason to know whether Anronico's knows
20 anything about the health hazards of smoking, do you?
21 A. No.
22 Q. She's made certain claims about the
23 addictive nature of cigarettes. You have no reason
24 to know whether Anronico's knows anything about the
25 addictive nature of cigarettes?

128

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 MS. CHABER: Counsel, assume he knows
2 nothing about Anronico's since he told you at the
3 beginning of this line of questioning he never heard
4 of it. How can he have knowledge about anything?
5 MR. SANO: This will take 30 more seconds.
6 Q. You have no knowledge about whether
7 Anronico's knows anything about the addictive nature
8 of cigarettes; correct?
9 A. That's correct.
10 Q. You have no knowledge about whether

11 Anronico's Markets knew anything about manipulating,
12 allegedly manipulating the addictive quality of
13 cigarettes; is that correct?

14 MS. CHABER: Same objection. Calls for
15 total speculation on this witness' part.

16 THE WITNESS: I don't know anything about
17 the market.

18 MR. SANO: Thank you.

19 Q. About Anronico's Market?

20 A. Especially.

21 MR. SANO: I think that's it.

22 MR. TE BEAU: I have no questions.

23 MS. BADRINATH: I have no questions.

24 MS. CHABER: Are we done?

25 MR. MILES: Close but no cigar as they say.

129

COMBS & GREENLEY (415) 512-1234, A LegaLink Company

1 An expression that may have gone out of vogue
2 recently. I have a couple.

3

4

FURTHER EXAMINATION

5

6 BY MR. MILES:

7 Q. When you formed Reyes Rooting, what
8 did you do to form it?

9 A. I didn't do anything except change
10 the name.

11 Q. Did you file any kind of a
12 certificate of doing fictitious --

13 A. Patricia did it at her level. She's
14 in love with the paperwork. Remember.

15 Q. Is it your understanding that you
16 filed some sort of certificate of doing business
17 under a fictitious name?

18 A. It's a subcontractor's license.
19 Under that name.

20 Q. And who do you get that license from?

21 A. The city.

22 Q. And what year was it you got the
23 license?

24 A. You'll have to check with her on that
25 one.

130

COMBS & GREENLEY (415) 512-1234, A LegaLink Company

1

Q. What is your recollection?

2

A. I have no idea.

3

4 Q. Who in the city, not individuals, but
5 what part of the city government do you go to to get
6 that license in order to find out whether this is a
7 license?

7

MS. CHABER: If you know.

8

9 THE WITNESS: I don't know. I couldn't tell
10 you. And it's not because I wouldn't. I don't
11 know. She takes care of that portion of the
12 paperwork stuff. Like I said, all I do is the field
13 work. Everything that has to do with paper, payroll,
14 taxes, so on, that's her department.

14 MR. MILES: That's all I have.

15

16

FURTHER EXAMINATION

17

18 BY MR. ROWLAND:

19

Q. Who bills out your jobs now?

20 A. Beg your pardon?
21 Q. Who bills out your jobs now?
22 A. I believe Star does.
23 MR. ROWLAND: Thank you.
24 THE WITNESS: I'm not there. So I got to
25 assume. I'm getting that that's who it is because 131

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 that's the computer person.

2 MR. ROWLAND: May lead to another question.

3 MS. CHABER: Be quiet. We can get out of
4 here today.

5 Before we end I did want to attach
6 for the record the objection that was served on
7 counsel objecting to this as anything other than a
8 discovery deposition, and since it is my only copy
9 can we stipulate, Counsel, that I can refer back to
10 it in the two depositions that are taking place
11 tomorrow or would you like me to --

12 MR. MILES: I didn't hear what you said at
13 the beginning.

14 MS. CHABER: I'm attaching as an exhibit my
15 objection that was served on counsel to this being
16 anything other than a discovery deposition and the
17 objection was made in both Penny and Star's case,
18 it's the only copy that I have. I'm asking whether
19 counsel would agree that I can just refer back to
20 this deposition for the actual objection?

21 MR. MILES: Sure.

22 MR. ROWLAND: That's fine.

23 MR. MILES: Do you have any authority for
24 this objection, any code section or statutory
25 authority?

132

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 MS. CHABER: Yes. The code section says you
2 can serve an objection if you object to the form of
3 the notice and I objected to the form of the notice
4 and this is the objection.

5 (The document referred to was marked
6 by the reporter as Plaintiff's Exhibit 1 for
7 identification and is attached hereto.)

8 MR. ROWLAND: To which we responded with a
9 letter because that's all we had time for.

10 MS. CHABER: I never got anything, Counsel.

11 MR. ROWLAND: All the letter says was
12 whatever the code says that's what the deposition --

13 MS. CHABER: Of course. You know, I'm not
14 aware that you can perpetuate a lay witness'
15 testimony without sufficient showings of
16 unavailability at the time of trial and your notice
17 goes beyond that and that was why I filed an
18 objection and I'm sure we can argue about this in
19 court sometime if it comes up.

20 MR. BAKER: I'm sure Mr. Reyes would love to
21 sit here another hour.

22 MS. CHABER: I'm done. I wanted to attach
23 the objection.

24 MR. ROWLAND: You can attach the objection.

25 MR. MILES: All right.

133

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 We want you to keep the original.

2 MS. CHABER: He can get it to me.
3 MR. MILES: Sir, would you state on the
4 record what your residence address is for the court
5 reporter.
6 MS. CHABER: Same as Patricia's. Send it
7 there.
8 MR. MILES: The court reporter, she wasn't
9 at Patricia's deposition so this --
10 THE WITNESS: DELETED.
11
12 MR. MILES: Thank you. We'll go by code.
13
14
15
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134

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
DECLARATION

1
2
3
4
5 I hereby declare I am the deponent in the
6 within matter; that I have read the foregoing
7 deposition and know the contents thereof, and I
8 declare that the same is true of my knowledge except
9 as to the matters which are therein stated upon my
10 information or belief, and as to those matters, I
11 believe it to be true.
12 I declare under the penalties of perjury of
13 the State of California that the foregoing is true
14 and correct.
15 Executed on the day of
16 1998, at , California.
17
18
19
20
21
22
23
24
25

W I T N E S S

135

COMBS & GREENLEY (415) 512-1234, A LegaLink Company
1 I, VICTORIA MELEKIAN, a Certified Shorthand
2 Reporter for the State of California, do hereby
3 certify:
4 That prior to being examined, the witness
5 named in the foregoing deposition was by me duly
6 sworn to testify the truth, the whole truth, and
7 nothing but the truth pursuant to Code Section
8 No. 2093 of the Code of Civil Procedure;
9 That said deposition was taken before me at
10 the time and place therein set forth, and was taken

11 down by me in shorthand and thereafter reduced to
12 typewriting via computer-aided transcription under my
13 direction;

14 I further certify that I am neither counsel
15 for, nor related to, any party to said action, nor in
16 anyway interested in the outcome thereof.

17 IN WITNESS WHEREOF, I have hereunto
18 subscribed my name this day of ,
19 1998.

20

21

22

23

VICTORIA MELEKIAN

24

CSR No. 6996

25

136

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